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I, RICHARD STEWART, have read
the foregoing transcript of
testimony and the same
contains a true and accurate
recording of my answers given
to the questions therein set
forth.

Signed under the pains and
penalties of perjury this

_____ day of _____,
1985.

RICHARD STEWART

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ANNE ANDERSON, et al.
vs
CRYOVAC, Division of W. R. Grace & Co.;
W. R. GRACE & CO.; JOHN J. RILEY COMPANY,
Division of Beatrice Foods Co.; BEATRICE
FOODS CO.

Civil Action
No. 82-1672-S

Continued deposition of RICHARD
STEWART, taken on behalf of the Plaintiffs, pursuant to
the applicable provisions of the Federal Rules of Civil
Procedure, before Valerie T. Wong, Notary Public within
and for the Commonwealth of Massachusetts, at the
offices of Schlichtmann, Conway & Crowley, 171 Milk
Street, Boston, Massachusetts, commencing at 10:15
o'clock A.M. on Thursday, July 25, 1985.

Appearances:

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I N D E X

| <u>Deposition of:</u> | <u>Direct</u> | <u>Cross</u> |
|-----------------------|---------------|--------------|
| Richard Stewart | 2-4 | |

EXHIBITS

| <u>Number:</u> | | <u>Page:</u> |
|----------------|---------------------------------|--------------|
| 2 | Two-page memo, May 8, 1975. | 2-68 |
| 3 | Memo, September 18, 1983. | 2-76 |
| 4 | NIOSH recommendation. | 2-76 |
| 5 | Memo, August 4, 1967. | 2-76 |
| 6 | Memo, March 22, 1967. | 2-76 |
| 7 | Two pages of handwritten notes. | 2-76 |
| 8 | Memo, August 24, 1973. | 2-76 |
| 9 | Memo, November 22, 1967. | 2-76 |
| 10 | Memo, May 20, 1974. | 2-76 |
| 11 | Two-page list. | 2-76 |

LAWYER'S NOTES

[illegible]

LAWYER'S NOTES

[illegible]

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2 MR. SCHLICHTMANN: You're familiar with
3 all our stipulations?

4 MR. DeGIACOMO: Yes.

5 MR. SCHLICHTMANN: You know you have the
6 opportunity to read the transcript?

7 MR. DeGIACOMO: Right.

8 MR. CHEESEMAN: So that it is on the
9 record, it is understood the witness is still sworn
10 from his previous deposition, and that we are
11 proceeding under the stipulations that have been
12 agreed to in the first Paul Shalline deposition.

13 MR. SCHLICHTMANN: I am going to refrain
14 from getting into any areas we went into
15 previously, unless the witness has additions or
16 corrections or wants to amplify any other state-
17 ments.

18 MR. CHEESEMAN: Thank you.

19 MR. SCHLICHTMANN: There will be
20 specific areas I will go into, but I don't think
21 there is any problem. I will try to complete the
22 witness's testimony within the next couple of
23 hours.

24 MR. CHEESEMAN: Fine.

25 MR. SCHLICHTMANN: All ready?

RICHARD STEWART,

a witness called by the Plaintiffs, first having been duly sworn, on oath deposes and says as follows:

Direct Examination (Resumed)

Q (By Mr. Schlichtmann) Mr. Stewart, you had an opportunity to read your deposition?

A Yes.

Q In reviewing your deposition, I know you have submitted some corrections to certain answers that you gave?

A Yes.

Q Other than those corrections you have given, is there anything in particular you wish to amplify or add to in the areas that I questioned you on previously? In other words, is there anything in particular on any areas I inquired about where you gave an answer but now you wish to clarify or amplify further what you previously testified to, in addition to what you have stated in the corrections?

MR. CHEESEMAN: I will object to that because I think it is your function to ask the

1
2 questions and for the witness to answer. I
3 appreciate that occasionally counsel like to
4 indicate that there is some amplification, but in
5 this instance we have given you the deposition
6 corrections and the volume is now signed with
7 those corrections. I think you should proceed
8 with specific questions.

9 Q All right. You were asked specific questions about
10 waste disposal practices, about your knowledge of
11 waste disposal practices at the plant; do you
12 remember being asked about that?

13 A Yes.

14 Q In reviewing your deposition concerning those
15 questions about waste disposal practices, is there
16 any answer or any information which you gave which
17 you would like to change other than what you have
18 submitted in the corrections?

19 A No.

20 Q Mr. Stewart, how long have you been associated
21 with W. R. Grace?

22 A I have been associated with Cryovac Division of
23 W. R. Grace & Company almost 20 years.

24 Q And at any time during that association did you
25 have any responsibility for environmental matters

1
2 or matters concerning the environment vis-a-vis
3 the plants of the Cryovac Division?

4 A Yes.

5 Q For how long a period have you been responsible
6 for those kinds of matters?

7 A Since each of the environmental acts of the
8 government has been en force.

9 MR. CHEESEMAN: That's en force.

10 Q In the 1960s, did any of your responsibilities
11 concern environmental matters relating to the
12 plants?

13 MR. CHEESEMAN: You're asking about
14 Woburn now?

15 MR. SCHLICHTMANN: Any of the plants of
16 the Cryovac Division.

17 A If in terms of environmental matters you are
18 asking about such things as sanitation, sanitary
19 sewer connections to a plant, certainly.

20 Q In the 1960s?

21 A Yes.

22 Q Do you remember for what period of time in the
23 1960s, whether it was the beginning period of the
24 1960s?

25 A Since I started with the company in 1965, '66.

1
2 Q From about 1966 or 1965 when you began working for
3 Cryovac Division, you had responsibilities for
4 environmental matters relating to the plants of
5 the Cryovac Division?

6 MR. CHEESEMAN: In the sense he
7 indicated.

8 Q In the sense you have indicated?

9 MR. CHEESEMAN: That question has been
10 asked and answered.

11 MR. SCHLICHTMANN: Right. I am making
12 sure I understand.

13 MR. CHEESEMAN: You're asking him about
14 environmental matters, including such matters as
15 sanitary sewer connections?

16 MR. SCHLICHTMANN: Yes, those things.

17 A Certainly.

18 Q And did your responsibilities also concern the
19 types of chemicals that the plants were using and
20 the properties of those chemicals?

21 MR. CHEESEMAN: You're asking him if
22 his responsibilities for Cryovac included the use
23 of chemicals or the identification or type of
24 chemicals?

25 MR. SCHLICHTMANN: And their properties.

1
2 MR. CHEESEMAN: Irrespective whether it
3 has to do with disposal?

4 MR. SCHLICHTMANN: Irrespective of
5 disposal.

6 Q In all cases, I had responsibility for safety and
7 health matters, environmental matters, and
8 obviously that would include chemicals used by the
9 plants.

10 Q That was true since your association with the
11 Cryovac Division in 1965?

12 MR. CHEESEMAN: I think he said 1965 or
13 1966.

14 MR. SCHLICHTMANN: Right.

15 A Yes. Understanding the laws such as OSHA, TOSCA
16 and others came later, at which time there would
17 obviously be more involvement with answering
18 inquiries and doing that sort of thing.

19 Q All right.

20 A Basically, Cryovac's philosophy is to have a
21 clean operation, a safe and healthy operation,
22 and from that standpoint we were involved.

23 Q You say that the Cryovac philosophy is to have a
24 clean operation and a safe and healthy operation.
25 Would you say that that characterized the

philosophy of the Cryovac Division from your association with the Cryovac Division until the present?

A Yes.

Q Now, how would you describe what you mean by a clean, safe and healthy operation?

MR. CHEESEMAN: You're asking what he understands the company's philosophy to have been?

MR. SCHLICHTMANN: That is a better way of saying it.

A Our company is involved in the business of producing food wrapping material and food packaging equipment. Therefore, we have been under the jurisdiction or the guidance of the USDA and FDA, and those activities and our attitude and philosophy have been to operate in clean plants, plants where you can take customers, and produce materials that were satisfactory for the use for which they were intended.

Q When you say a clean operation and a safe and healthy one, would that also pertain to the waste disposal practices at the plant?

A Waste disposal is a separate issue, if you will.

A clean plant and a clean plant environment is

one thing; safety and health is another issue.

Waste disposal is a third issue.

Q Would you agree though, that one of the concerns in waste disposal practices is that it be done in a safe and healthy manner?

MR. CHEESEMAN: Are you asking about the company's philosophy?

MR. SCHLICHTMANN: Exactly; as he understands it.

A Yes.

Q You would agree with that?

A Yes.

Q You would agree that was the company's philosophy?

A Yes.

Q Since your association with the company?

A Yes.

Q Now, to your knowledge, did the Cryovac Division have any rules or regulations or authorized procedures for which the various plants of the Cryovac Division were to follow concerning waste disposal?

MR. CHEESEMAN: Are you talking prior to the effectiveness of the manifesting system?

1
2 MR. SCHLICHTMANN: From the beginning
3 of his association.

4 MR. CHEESEMAN: The reason I qualify
5 that, the answer is obviously yes since the 1980
6 requirement.

7 MR. SCHLICHTMANN: Let me qualify that.

8 Q Mr. Stewart, right now I am interested in the
9 initial period of your association with the
10 Cryovac Division of W. R. Grace, so my question is
11 directed to that period of time when you first
12 became associated with them. At that time, to
13 your knowledge, did the Cryovac Division have any
14 rules, regulations or procedures which the various
15 plants of the Cryovac Division were to follow
16 concerning waste disposal of chemicals used at
17 the plant or produced at the plant?

18 MR. CHEESEMAN: You're asking about any
19 plant?

20 MR. SCHLICHTMANN: Any plant of the
21 Cryovac Division.

22 A We do not produce chemicals. The company
23 philosophy was as I described.

24 Q How do you mean "as I described?"

25 A Repeat your question.

1
2 Q During the beginning of your association were you
3 aware -- To your knowledge, did the Cryovac
4 Division of W. R. Grace have certain rules or
5 regulations or procedures which the various
6 plants of the Cryovac Division were suppose to
7 follow concerning waste disposal of chemical waste
8 produced at the plants?

9 MR. CHEESEMAN: I understand the
10 question to be asking whether there were written
11 manuals or guidelines or written company policy
12 relating to those subjects.

13 MR. SCHLICHTMANN: That is fair enough.

14 A Yes.

15 Q There were?

16 A Yes.

17 Q And to your knowledge, Mr. Stewart, what were those?

18 MR. CHEESEMAN: I guess I will object to
19 the question. Are you asking him to summarize --

20 MR. SCHLICHTMANN: Do I --

21 MR. CHEESEMAN: -- what policies there
22 were as opposed to what the content of the policies
23 was?

24 MR. SCHLICHTMANN: Let's go off the
25 record.

(Discussion off the record)

Q Mr. Stewart, you said there were such rules, regulations, policies or procedures; is that right?

A Correct.

Q Were these written or contained in written form?

A Yes.

Q Were there also policies or procedures or rules or regulations which were not written but transmitted orally?

MR. CHEESEMAM: You mean apart from orally reiterating the existing written policies?

MR. SCHLICHTMANN: Or the fact there were oral regulations or policies which were not written down in any form.

A Regulations, rules, policies would be in written form. Philosophy would very well be oral.

Q How were these documents contained? How would you describe these documents?

A They are policies, procedures, programs, things of that nature.

Q Were they in existence during the beginning of your association in 1965 or 1966, or did they come in existence at a later time?

1
2 A I cannot tell you at this time the date of each one
3 of the policies of Cryovac Division. But policies
4 were in existence when I arrived at Cryovac
5 Division.

6 Q Let me see if I understand you.

7 To your knowledge, were the policy
8 books? What form did they take? In other words,
9 if I were to ask to receive copies of them, how
10 would I have to describe them?

11 A You would ask for division policies.

12 Q Were there specific policies or procedures
13 concerning waste disposal that was to take place
14 at plants?

15 MR. CHEESEMAN: When you say "to take
16 place at plants," you mean applicable to plants?

17 MR. SCHLICHTMANN: That is a better way
18 to say it.

19 A At any time?

20 Q Yes.

21 A You didn't specify a time, but yes.

22 Q Were they applicable when you first began your
23 association in 1965 or 1966?

24 A I am sure there were policies written in 1965 and
25 1966.

1
2 Q And there are policies now?

3 A Yes.

4 Q There are certainly more detailed policies because
5 of the federal regulations which came in place in
6 1980?

7 A Yes.

8 Q And those policies certainly have to do with OSHA,
9 which came in place in 1970?

10 A Yes.

11 Q And TOSCA came in late, the late '60s?

12 A '70s.

13 Q And you think that the policies or procedures in
14 written form in the 1960s pertain to procedures
15 that the plants of the Cryovac Division should
16 follow for disposal of waste produced at the
17 plants?

18 A Yes.

19 Q To your knowledge, are those in existence now,
20 the ones that existed when you began your
21 association with W. R. Grace?

22 A I don't have any knowledge. I don't know.

23 MR. SCHLICHTMANN: We will go off the
24 record here.

25 (Discussion off the record)

1
2 MR. CHEESEMAN: At Mr. Schlichtmann's
3 request, we will review company files, division
4 files, to see if we can locate any of the written
5 materials that the witness has just described, and
6 if we find them we will produce them.

7 MR. SCHLICHTMANN: Thank you.

8 Q Mr. Stewart, how would you characterize Cryovac
9 Division's policy or how would you describe
10 Cryovac Division's policy concerning the practices
11 or procedures that Cryovac Division plants should
12 follow in the disposal of chemical waste which may
13 be produced at the various plants?

14 MR. DeGIACOMO: Objection.

15 MR. SCHLICHTMANN: You don't like that
16 question?

17 MR. CHEESEMAN: I will object to the
18 question as a matter of form. I want to remind
19 you there are significant differences among
20 various of the Cryovac plants in the nature of
21 their operations and the products that they
22 manufacture.

23 MR. SCHLICHTMANN: And the policies?

24 MR. CHEESEMAN: I assume your question
25 does not mean to imply that there are, that any of

1
2 the policies necessarily apply to all plants
3 uniformly.

4 MR. SCHLICHTMANN: Is that the case?

5 MR. CHEESEMAN: You can ask the witness.

6 Q Now, Mr. Stewart, to your knowledge, do the policies
7 and procedures that were in effect when you began
8 your association with W. R. Grace Company in its
9 Cryovac Division in 1965 or 1966, do these policies
10 or procedures vary from plant to plant, concerning
11 the type of plant it is, regarding the proper
12 disposal of chemical waste produced at the various
13 plants?

14 MR. CHEESEMAN: Keep that question in
15 mind and just wait a minute.

16 I assume we have stipulated to reserve
17 to the time of trial best evidence objections,
18 should it turn out these policies are available in
19 written form?

20 MR. SCHLICHTMANN: Absolutely.

21 MR. CHEESEMAN: So I don't have to keep
22 objecting to each question.

23 MR. SCHLICHTMANN: Fine.

24 A I don't have any knowledge.

25 Q That the policies varied from plant to plant?

1
2 A That is correct.

3 Q You said there were certain policies and procedures
4 written down for that period, for 1965 and 1966 as
5 well. What I am trying to get at, Mr. Stewart, to
6 your knowledge, did the policies or the procedures
7 about waste disposal for various plants vary
8 depending on the various plants and their
9 operations, if you have any knowledge?

10 A No.

11 Q So you think the policies and procedures were
12 uniformly applied to the various plants of the
13 Cryovac Division?

14 A Yes.

15 Q Well, that being the case, would you be able to
16 describe for me the basic requirements that apply
17 to the various plants at the Cryovac Division
18 regarding proper disposal of chemical waste which
19 may be produced at the plants?

20 MR. CHEESEMAN: Are you now asking
21 about the 1965-1966 period?

22 MR. SCHLICHTMANN: Exactly.

23 MR. CHEESEMAN: To the extent you can
24 remember specific procedures or policies, by all
25 means, answer.

1
2 A I have no recollection of specific provisions of
3 the policy.

4 Q For that period?

5 A For that period.

6 Q Do you have any recollection of certain policies
7 or procedures at a later period?

8 A Yes.

9 Q Which period do you have a recollection of?

10 A At the institution of OSHA, for example, other
11 federal acts, TOSCA. In each instance there are
12 policies or procedures to cover those particular
13 subjects.

14 Q You have a recollection of those procedures in an
15 attempt to help the plant fulfill their obligation
16 under the OSHA requirements or the TOSCA require-
17 ments?

18 A Correct.

19 Q But other than those regulations pertaining to
20 those two areas, you don't have a recollection of
21 what the policies or procedures were of the
22 W. R. Grace Company or the Cryovac Division prior
23 to that period that those acts came into being?

24 A I do not have a recollection.

25 Q Was one of your responsibilities to submit or

1
2 provide information to various plants of the
3 Cryovac Division concerning the harmful qualities
4 of some of the chemicals the plants may be using?

5 A That is correct.

6 Q And in documents that have been produced and which
7 I have reviewed with you, I believe there were
8 certain stop orders. You are familiar with these
9 stop orders that were sent from time to time to
10 the plants?

11 A I am.

12 Q Now, to your knowledge, Mr. Stewart, how did you
13 obtain the information that went into these
14 documents -- Strike that.

15 How did you obtain the information or
16 from what sources did you obtain the information
17 which you provided to the various plants of the
18 Cryovac Division at various times concerning the
19 toxic properties of various chemicals the plants
20 may be using?

21 MR. CHEESEMAN: Or alleged --

22 Q Or alleged toxic properties?

23 A We read the Federal Register. We subscribe to
24 such services as the BNA. We attended seminars.
25 We used the Registry of Toxic Substances produced

by the United States Department of Health and other sources.

Q Can you list those services for me as best you can? I know you have given me several, but can you give me any others?

A How long do we have?

Q It is important. If you can do the best you can to list those, I would appreciate it.

A We have a technical library with many volumes concerning safety, toxicology, health.

Q Health, safety and toxicology?

A Toxic substances.

We use all the information that is available to us from that library from all of the resources that we were aware of.

Q I know it may be somewhat difficult, but what resources other than the ones you have already described?

A I covered everything, I think.

Q You talked about a technical library and BNA Service, the Federal Register, seminars, the Registry of Toxic Substances put out by the Department of Health?

A Uh-huh.

1
2 Q Does any other resource come to mind which you
3 made use of in distributing information to the
4 various plants of the Cryovac Division about
5 toxic property or alleged toxic properties of the
6 various chemicals the plant may be using?

7 A No.

8 Q Now, this technical library, where is this located?

9 A At Duncan.

10 Q In Duncan, South Carolina?

11 A Yes.

12 Q Was the technical library in existence when you
13 became associated with Cryovac in the mid '60s?

14 A Yes.

15 Q To your knowledge, how long has that technical
16 library been in existence?

17 A Since the Duncan headquarters were built in 1962.

18 Q Was there a Cryovac prior to 1962?

19 A Yes.

20 Q Was it owned by W. R. Grace prior to 1962?

21 A Yes.

22 Q Cryovac Division was founded by W. R. Grace; they
23 didn't purchase it from anyone?

24 A That is correct.

25 Q Do you know how long Cryovac has been in existence

as a division?

A The transition from W. R. Grace to a specific Cryovac Division covered a period of years. To answer your question specifically, I can't answer exactly the date on which the Cryovac Division was formed.

Q Was it the early '50s?

A '50s.

Q Now, to your knowledge, did the technical library, was that always in existence throughout the existence of the Cryovac Division?

A I have no knowledge.

Q You do know it was in existence when -- The technical library at its present location was formed when they built the headquarters in Duncan, you're aware of that?

A Yes.

Q Do you have any idea whether the technical library existed prior to the headquarters being built in 1962?

A I have no knowledge of that.

Q The books produced by the BNA, the Federal Register, the Registry of Toxic Substances, were those all resources of the technical library?

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Were they available at the technical library?

A Yes.

Q Was there a librarian in charge of the library?

A Yes.

Q Did the librarian have a staff, do you know?

A Yes.

Q Do you know approximately how many people?

A It varied from two to four.

Q Did any of those people have any special expertise,
do you know?

A They were all expert librarians.

Q Do you know if they had any expertise in the
technical areas or scientific areas, environmental
and health areas?

A Not to my knowledge.

Q Do you know who the present librarian is?

A Yes.

Q Is it a woman or man?

A Woman.

Q What is her name?

A Ms. Meg Ezell.

Q Do you know how long Miss Ezell has been associated
with the technical library?

A I don't know when she was hired.

1

2

Q Do you have any idea whether she was there from the beginning?

3

4

A She was not.

5

Q Do you know if she was hired in the '70s or '80s?

6

A I don't know.

7

Q Do you know who she replaced?

8

A I do not.

9

Q Do you know who was the technical librarian in the 1960s?

10

11

A I do not.

12

Q Did it have one?

13

A Yes.

14

Q This technical library was a resource that was available to your office?

15

16

A Yes.

17

Q Were there any other offices to which it was available or was this primarily for use by your office?

18

19

20

A It was available to the whole division. The technical library included all kinds of technical information on all aspects of our business.

21

22

23

Q Including various chemicals the plant used, the various plants used of the Cryovac Division?

24

25

A Yes.

1
2 Q And it had periodicals and journals as well as
3 text books?

4 A Yes.

5 Q Was it your understanding that the technical
6 library was to stay current with the developing
7 area of science concerning health, safety,
8 toxicology and various toxic substances and their
9 properties?

10 A The technical library and the director did not
11 have the prerogative to go out and buy books.
12 They were to serve headquarters of the Duncan
13 Division, Cryovac Division, and purchase whatever
14 technical information was required by people in
15 various classes of the industry.

16 Q Was the librarian responsible for determining
17 what text or journals or periodicals the library
18 would continue to keep current with?

19 A No.

20 Q Whose responsibility would that have been?

21 A Ultimately, the vice president of Research,
22 Development Administration.

23 Q The vice president of Research, Development --

24 A And Engineering; I'm sorry.

25 Q Who is that person now?

1

2

A Mr. A. Engleman.

3

Q Could you spell that?

4

A E-N-G-L-E-M-A-N.

5

Q Do you know how long Mr. Engleman has been
associated with Cryovac?

6

7

A I do not.

8

Q Do you know how long he has held the vice president
position?

9

10

A Not specifically. I would say it was less than ten
years.

11

12

Q Do you know who occupied that position before him?

13

A Mr. W. G. Baird, B-A-I-R-D.

14

Q How long did Mr. Baird hold that position?

15

A Forever.

16

Q What happened to Mr. Baird? Did he move to another
position at Cryovac?

17

18

A He retired.

19

Q He is now retired?

20

A He is.

21

Q Is he still alive?

22

A Yes.

23

Q Do you know if he is in the Duncan area?

24

A Yes.

25

Q Now, were you subordinate to Mr. Baird?

1

2

A Yes.

3

Q Were you subordinate when he retired?

4

A Yes.

5

Q So you would answer to Mr. Baird?

6

A Yes.

7

Q But Mr. Baird had the ultimate responsibility at that time to determine what resources would be collected concerning health, safety, toxicology or toxic substances for use by the Cryovac Division?

8

9

10

11

12

A We are still talking about the technical library?

13

Q Yes.

14

A Yes.

15

Q Now, you referred to seminars that were attended.

16

17

18

19

Do you know if these were seminars sponsored by the government and various professional organizations as well as W. R. Grace or the Cryovac Division?

20

A Yes.

21

Q Would that include all three: seminars by the government, professional organizations or associations, and W. R. Grace or the Cryovac Division?

22

23

24

25

A Yes.

1

2

Q You attended these seminars?

3

A Some of them.

4

Q Did other members of your staff attend them?

5

A Some of them.

6

Q How many people do you have reporting to you?

7

MR. CHEESEMAN: Now?

8

MR. SCHLICHTMANN: Yes.

9

A In the Duncan office?

10

Q Yes.

11

A In the area of environmental, safety and health?

12

Q That area.

13

A That area?

14

Q Yes.

15

A Five engineers, one technician.

16

Q The engineers, what expertise do they have, what type of engineers?

17

18

A Architectural, electrical, civil, chemical; that is it.

19

20

Q When you said one technician, is there any special expertise of that individual?

21

22

A He has been trained in an Olds certificate as a waste water treatment operator.

23

24

Q How would you describe the staff concerning environmental and health matters during the

25

1
2 beginning of your association with Cryovac
3 Division?

4 MR. CHEESEMAN: You're talking about
5 the technical training?

6 Q How many engineers or technicians did you have
7 and what were there areas of expertise?

8 MR. CHEESEMAN: By "you," you mean
9 Cryovac?

10 MR. SCHLICHTMANN: Yes. I'm talking
11 about his office.

12 A At the time I joined Cryovac, there was one
13 engineer whose duties included those kinds of
14 matters.

15 Q So one engineer in 1965 would have had the
16 responsibility regarding architecture, electrical
17 matters, civil engineering matters and chemical
18 engineering matters?

19 A You have changed the subject.

20 Q I apologize.

21 A You have changed it from environmental, safety and
22 health to these specific functions.

23 Q My understanding was there are five engineers and
24 one technician, and these are the people
25 responsible for environmental and health matters

1
2 or matters relating to environmental; is that an
3 improper understanding?

4 MR. CHEESEMAN: At the present time?

5 MR. SCHLICHTMANN: At the present time,
6 yes.

7 Q Is that a correct understanding?

8 A Environmental, safety and health and other
9 functions.

10 Q But they would also have some responsibility,
11 they would be the employees with responsibilities
12 concerning environmental, health and other
13 matters?

14 A Correct.

15 Q I guess my point was in '65 you said there was one
16 engineer who was responsible for environmental
17 and health matters; is that correct?

18 A Yes.

19 Q Did his responsibilities also include other
20 matters, such as architectural, electrical, civil
21 engineering and chemical engineering?

22 A No.

23 Q Who had those responsibilities?

24 MR. CHEESEMAN: I don't understand the
25 question.

MR. SCHLICHTMANN: You don't? Either do

I.

Q Were there other engineers responsible for those areas?

A Yes.

Q So the one engineer in 1965 was specifically responsible for environmental and health matters or did he have other responsibilities?

A Other responsibilities.

Q What did those include?

A USDA, FDA and other responsibilities.

Q Other than that engineer, was there any other employee who was responsible for environmental and health matters who is related to your office or the office you were associated with in 1965 or 1966?

A No.

Q But you had some of those responsibilities concerning environmental and health matters?

A As federal regulations like OSHA, TOSCA and so forth evolved, I became involved and had responsibilities in those areas.

Q In other words, in the mid '60s, according to your knowledge, there was one person, an engineer, and

his responsibilities concerned environmental matters of the various plants?

A Correct.

Q And health?

A Yes.

Q Now, could you describe what was meant by environmental and health matters in -- Strike that.

Would you describe what that engineer's responsibilities were for environmental and health matters relating to the plants of the Cryovac Division as you understood it in the mid '60s?

A I think I can best describe it as being responsible for carrying out the philosophy of the Cryovac Division as related to its community relationship, being a good corporate citizen, and its specific relationship with such regulations as governed the industry which we were involved.

Q Would you agree that one of the responsibilities, one of the areas under environmental-health necessarily included what would be proper waste disposal practices at the plants?

MR. CHEESEMAN: I object to the form of that question.

Q Do you understand the question?

1
2 MR. CHEESEMAN: I particularly object to
3 the word "necessarily."

4 MR. SCHLICHTMANN: Strike that question.

5 Q Was waste disposal practices, was that inclusive
6 in the term "environmental-health matters?"

7 MR. CHEESEMAN: You're asking about the
8 witness's understanding of the individual job
9 functions in the mid '60s?

10 MR. SCHLICHTMANN: Exactly.

11 A Your question is asking about environmental-health
12 matters?

13 Q Right.

14 A I don't understand the terminology.

15 Q I thought there was -- I thought we --

16 MR. CHEESEMAN: He has gotten away from
17 that phrase and is now asking you if, in your
18 understanding, this particular individual's job
19 function in the mid '60s included matters of waste
20 disposal.

21 MR. SCHLICHTMANN: Exactly.

22 A I don't know.

23 Q Well, did it at a later time, did environmental-
24 health matters come to include at some point, to
25 your knowledge, proper waste disposal practices at

1

2

the plants?

3

MR. CHEESEMAN: There is that phrase

4

again.

5

A Environmental, health and safety matters.

6

Q Environmental, health and safety matters?

7

A They were always of concern to Cryovac Division.

8

Q Well --

9

A Did I answer your question?

10

Q I think you did.

11

Is it fair to say in the mid '60s --

12

Strike that.

13

Was there, to your knowledge, a

14

technical person who had the responsibility of

15

waste disposal practices of the various plants?

16

A I don't have any knowledge.

17

Q You have no knowledge?

18

A No.

19

Q At sometime, to your knowledge, did someone, did

20

a technical person have responsibilities concerning

21

the waste disposal practices which took place at

22

the various plants of the Cryovac Division at

23

some point?

24

A Yes. Certainly as regulations were evolved, the

25

technical aspects of those regulations were given

1
2 as a responsibility to an individual or individuals
3 at Duncan.

4 Q Do you have any period of time in mind when it
5 took place? Was it after enactment of OSHA or
6 after enactment of TOSCA or RCRA?

7 MR. CHEESEMAN: I object to the
8 question.

9 MR. SCHLICHTMANN: Okay.

10 MR. CHEESEMAN: I should say questions.

11 MR. SCHLICHTMANN: I'm just asking this
12 first rather than split it up into a whole bunch of
13 little ones.

14 MR. CHEESEMAN: Go ahead and answer.

15 A Obviously, in the '70s with the enactment of OSHA,
16 in '72 with the Clean Air Act, in 1976 with the
17 Clean Water Act, in 1976 with RCRA, TOSCA and other
18 regulations. As those regulations were developing,
19 an individual was given responsibility.

20 Q All right.

21 A And new programs developed.

22 Q Now, you used the phrase "being a good corporate
23 citizen." What did you mean by that? How would
24 you describe the meaning of being a good corporate
25 citizen?

1
2 A The philosophy of Cryovac has been in each location
3 in which we have a plant to be a good member of the
4 community, a good corporate citizen, to become
5 involved in civic affairs, to have the image of
6 being a clean and well run industry.

7 Q Now, that was one of the principles of the Cryovac
8 Division since the beginning of your association
9 with them?

10 A Philosophy.

11 Q It was part of their philosophy?

12 A Yes.

13 Q And it was transmitted to the various plants of the
14 Cryovac Division?

15 A Yes.

16 Q And it was expected each of the plants of the
17 Cryovac Division would live up to that philosophy?

18 A Yes.

19 Q And one of the elements of being a good corporate
20 citizen was to make sure that a particular plant
21 did not expose the community to any environmental,
22 health or safety concerns?

23 A Yes.

24 Q And that was one of the obligations on the part of
25 various plants of the Cryovac Division, to make

1
2 sure their operations did not pose a threat to the
3 environment, health or safety of the surrounding
4 community?

5 A Yes.

6 Q And therefore, if there was a plant in the
7 Cryovac Division whose operations did pose a
8 threat to the surrounding community, environmental,
9 health or safety matters would not be performed
10 according to the requirements of the Cryovac
11 Division?

12 MR. CHEESEMANN: I object to the form of
13 that question.

14 MR. SCHLICHTMANN: I thought it was a
15 good one.

16 A Yes.

17 Q Any plant whose operations posed a threat to the
18 surrounding community in environmental, health or
19 safety aspects, that plant would have been in
20 violation of Cryovac's policy?

21 A I don't know if those words were written in any
22 specific policy.

23 Q You have no knowledge?

24 A My memory does not tell me that.

25 Q To your knowledge though, it was made known to the

1
2 various plants of the Cryovac Division they were
3 to conduct their operations in such a manner that
4 they did not pose a threat to surrounding
5 communities' health, safety or environment?

6 A Certainly.

7 Q If the plants did engage in operations which did
8 pose such a threat to surrounding communities'
9 health, safety and environment, then that plant
10 would not be in accordance with the rules and
11 regulations of the Cryovac Division?

12 MR. CHEESEMAN: The problem with that
13 last question is that it failed to take into
14 account acts of God, unavoidable accidents and the
15 like.

16 MR. SCHLICHTMANN: All right.

17 MR. CHEESEMAN: Stating the philosophy
18 is one thing, and stating any company for one
19 reason or another -- any plant for one reason or
20 another poses a threat is in violation of that
21 philosophy does not necessarily follow.

22 MR. SCHLICHTMANN: Let me try --

23 MR. CHEESEMAN: I guess I should state
24 that as an objection. If you insist on an answer,
25 the witness will respond.

1
2 MR. SCHLICHTMANN: I will phrase it the
3 right way. The objection is well taken.

4 MR. CHEESEMAN: I think you have covered
5 it well.

6 MR. SCHLICHTMANN: Let me make it more
7 specific.

8 Q Would you agree then, Mr. Stewart, that to your
9 knowledge it was made known to the plants, various
10 plants of the Cryovac Division, that they were not
11 to undertake any acts or engage in any activity
12 which would pose a threat to the surrounding
13 environment, community's environment, safety or
14 health?

15 A Yes.

16 Q Would you agree that pouring waste solvents on the
17 ground in such a manner that it could contaminate
18 the groundwater of the community would have been
19 a violation of Cryovac Division's policy?

20 MR. CHEESEMAN: I will object to that
21 question as a matter of form, and it is so
22 general and unqualified that I don't think it
23 adequately takes into account the complexity of
24 such technical issues as groundwater flow, hydro-
25 geology and the like, in which this witness is

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not qualified as an expert.

MR. DeGIACOMO: Can I interject for a moment?

I am not sure I understood the question. Are you saying that if he or an employee had specific knowledge what they were doing would result in contaminating the water, is that what you're saying?

MR. SCHLICHTMANN: Let me try it again. It was a lousy question.

Q To your knowledge, was it against Cryovac Division's policy for a plant, for one of its plants, to dispose of waste chemicals produced at the plant on the ground?

MR. CHEESEMAN: When?

MR. SCHLICHTMANN: At any time.

MR. CHEESEMAN: At any time?

MR. SCHLICHTMANN: Yes.

MR. CHEESEMAN: Including the period of time the manifesting system and --

MR. SCHLICHTMANN: Any time during his association with W. R. Grace.

A I cannot answer that unqualified question.

Q Let me be more specific.

1
2 A Are you asking --

3 MR. CHEESEMAN: Wait for the question.

4 Q To your knowledge, when you began your association
5 with the Cryovac Division of W. R. Grace in the
6 mid '60s, was your understanding that the plants,
7 the various plants of the Cryovac Division, were
8 not to dispose of chemicals, of chemical wastes
9 produced at the plant by disposing of them on the
10 ground?

11 MR. CHEESEMAN: You're asking him as to
12 any waste?

13 MR. SCHLICHTMANN: Chemical waste.

14 MR. CHEESEMAN: That does not help me.
15 Do you mean coolants and --

16 A Soap is a chemical.

17 MR. CHEESEMAN: You're asking a general
18 question. If you can specify what the chemical is,
19 the witness can answer if he remembers a policy
20 that applied to that particular chemical or kind
21 of chemical.

22 Q Was there any policy, Mr. Stewart, to your
23 knowledge, when you began your association with the
24 Cryovac Division of W. R. Grace in the mid 1960s
25 which prohibited the disposing of chemical wastes

1
2 produced at the various plants by disposing of
3 them on the ground?

4 A When I began my tenure with W. R. Grace, I had no
5 recollection of any policy which stated you will
6 not pour chemicals on the ground, if chemicals
7 include soapy water and whatever.

8 Q To your knowledge, for how long a period have the
9 various plants of Cryovac Division used solvents in
10 the manufacturing process?

11 MR. CHEESEMAN: Any plant?

12 MR. SCHLICHTMANN: Yes.

13 Q For how long has Cryovac in any of its plants used
14 solvents in the manufacturing process?

15 MR. CHEESEMAN: If any of them did.

16 MR. SCHLICHTMANN: I assume they did.

17 The one in Woburn did.

18 MR. CHEESEMAN: There is certainly no
19 evidence the one in Woburn used solvents -- I
20 don't know how you phrased the question.

21 MR. SCHLICHTMANN: In the manufacturing
22 process.

23 MR. CHEESEMAN: All right. I won't
24 object to you asking that general question about
25 all the plants. I do want to say if you're going

1
2 to get into specific processes of other plants, I
3 will not do that.

4 MR. SCHLICHTMANN: I have too much to
5 do with Woburn. I don't want to do that.

6 MR. CHEESEMAN: Do you recall the
7 question?

8 A Your question asked using the specific -- using
9 the generic term "solvents," and I would use the
10 same generic term to say every plant used solvents.

11 Q Let me qualify that by saying industrial solvents.
12 Do you know what I mean by industrial solvents?

13 A No.

14 Q You don't think that is a term of art?

15 A No.

16 Q Well, industrial solvents would be such things as
17 used in the manufacturing process to degrease
18 metal parts or to clean machine parts or
19 machinery, which would include chlorinated
20 hydrocarbons or solvents containing hydrocarbons.
21 Okay?

22 A Does that include soap, Okite and a number of
23 other chemicals?

24 Q I am restricting solvents to industrial solvents,
25 the phrase "industrial solvents," which would be

1

2

chlorinated hydrocarbons.

3

A Yes.

4

Q You have an understanding of that?

5

A Yes.

6

Q The Cryovac plants, the various plants of the

7

Cryovac Division, they have always used various

8

industrial solvents of one kind or another through-

9

out the existence of the Cryovac Division; is that

10

right?

11

MR. CHEESEMAN: I guess I will object

12

to the form of the question, the use of the term

13

"always."

14

Q To your knowledge, have the various plants of the

15

Cryovac Division used industrial solvents through-

16

out your association with the Cryovac Division?

17

MR. CHEESEMAN: In the limited sense

18

you have defined?

19

MR. SCHLICHTMANN: Yes.

20

MR. CHEESEMAN: Chemicals containing

21

chlorinated hydrocarbons and hydrocarbons?

22

MR. SCHLICHTMANN: Right.

23

MR. CHEESEMAN: Which are solvents?

24

MR. SCHLICHTMANN: Yes.

25

A You have not quantified your question. Certainly,

1
2 in any plant there is the necessity to use, to
3 quote you, "chlorinated hydrocarbon type solvents"
4 in the maintenance of equipment and functions of
5 that nature.

6 Q But to your knowledge, all of the plants of the
7 Cryovac Division made use of industrial solvents
8 during the time you have been associated with the
9 Cryovac Division? That is a normal part of the
10 manufacturing process?

11 A Yes.

12 Q And it is probably a good assumption or a fair
13 assumption, based upon your knowledge of the
14 activities of the Cryovac Division, that is the
15 case?

16 MR. CHEESEMAN: I object to the form
17 of the question and the use of an assumption.

18 MR. SCHLICHTMANN: Let me strike that
19 question.

20 Q Do you have any reason to believe that the plants
21 of the Cryovac Division did not make use of these
22 industrial solvents prior to your association
23 with the Cryovac Division?

24 MR. CHEESEMAN: I object.

25 Q Do you have any reason to believe it is not the

case?

A I wasn't there, but I have no reason to believe they didn't.

Q To your knowledge, Mr. Stewart, when you became associated with the Cryovac Division of W. R. Grace in the mid 1960s, were there any policies or practices regarding how these industrial solvents should be disposed of?

MR. CHEESEMAN: Could you read it back?

MR. SCHLICHTMANN: I'll ask him again.

MR. CHEESEMAN: No. It'll give her something to do.

THE REPORTER: Question: To your knowledge, Mr. Stewart, when you became associated with the Cryovac Division of W. R. Grace in the mid 1960s, were there any policies or practices regarding how these industrial solvents should be disposed of?

A I have no specific knowledge.

Q At any time, to your knowledge, has the Cryovac Division of W. R. Grace promulgated any policies to the various plants regarding how these industrial solvents should be disposed of?

MR. CHEESEMAN: At any time?

MR. SCHLICHTMANN: Yes.

MR. CHEESEMAN: Including 1980, the manifesting system?

MR. SCHLICHTMANN: Prior to 1980. We know they had to do it for 1980, right?

A Not to my knowledge.

Q Well, did --

A You're asking a specific question and I am answering specifically.

Q To your knowledge, was it contrary to Cryovac Division policy for any plant of the Cryovac Division to dispose of industrial solvents on the ground of the plant's property?

MR. CHEESEMAN: Is that the question that was just asked and answered? If the witness understands it as the same question, the witness will presume to give the same answer.

MR. SCHLICHTMANN: It is asking for the same kind of information but in different form. I will be specific so there is no misunderstanding here.

MR. DeGIACOMO: If there was no policy, how can --

MR. SCHLICHTMANN: I want to know if

there was.

MR. CHEESEMAN: I object to the question for that reason.

Q Do you understand the question, Mr. Stewart?

A I don't remember it now.

Q I will repeat it.

When you began your association with the Cryovac Division of W. R. Grace, was it against Cryovac Division's policy for any of its plants to dispose of industrial solvents on the ground of the plant's property?

A When I began my tenure with Cryovac Division, I have no knowledge of such a policy.

Q Is it fair to say the various plants of the Cryovac Division were allowed to dispose of industrial solvents on the ground prior to the enactment of federal regulations in 1980?

MR. CHEESEMAN: I object to the form of the question. Are you asking if there was, so far as he remembers, a specific policy that said you may, you are permitted?

MR. SCHLICHTMANN: Yes.

MR. CHEESEMAN: That said they could dispose of it on the ground?

MR. SCHLICHTMANN: Yes.

A No.

Q There was no policy allowing it, but to your knowledge, Mr. Stewart, there was no policy prohibiting it?

MR. CHEESEMAN: I think he said he didn't recall.

A I have no recollection of a policy stating that specifically.

Q You have no recollection of such a policy prohibiting disposal of industrial solvents on the ground until the federal regulations in 1980 being enacted?

MR. CHEESEMAN: You're asking about the period up until that time?

MR. SCHLICHTMANN: Yes.

A That is correct.

Q Now, based upon your knowledge of the Cryovac Division -- Strike that.

I will ask your opinion in reference to your responsibilities with the Cryovac Division. In your opinion, was a plant in violation of Cryovac policy if it disposed of industrial solvents on the ground prior to the enactment of

1
2 federal regulations in 1980?

3 MR. CHEESEMAN: I object to the
4 question. The witness indicated he does not
5 recall a specific policy prohibiting that. Your
6 question is identical to the question that has
7 already been asked and answered two or three times
8 now.

9 MR. SCHLICHTMANN: I accept that.

10 MR. CHEESEMAN: Thank you.

11 Q Mr. Stewart, to your knowledge, did the plants,
12 any of the plants of the Cryovac Division, dispose
13 of industrial solvents on the ground prior to the
14 enactment of federal regulations in 1980?

15 MR. CHEESEMAN: Can we get your
16 definition of knowledge first? On several
17 occasions you have specified that when you ask
18 about a witness's knowledge of such matters that
19 you are asking about his personal observations of
20 such an act of disposal.

21 MR. SCHLICHTMANN: I will ask it both
22 ways.

23 Q When I say to your personal knowledge, I mean did
24 you actually observe it or did you perceive
25 information through any of your senses that such

1
2 activity was taking place; that is how I will use
3 the phrase.

4 MR. CHEESEMAN: Like hearing the plop
5 of liquid?

6 Q Smelling it, touching it.

7 A No.

8 Q Let me ask the question.

9 To your personal knowledge, did any of
10 the plants of Cryovac Division dispose of
11 industrial solvents on the ground prior to the
12 enactment of federal regulations prohibiting such
13 practices under federal law?

14 MR. CHEESEMAN: Did you ever observe
15 such an incident?

16 A No.

17 Q Did you ever hear or did it ever come to your
18 attention through any source whatsoever that any
19 of the plants of the Cryovac Division had
20 disposed of industrial solvents on the ground
21 prior to the enactment of federal regulations in
22 1980?

23 MR. CHEESEMAN: I assume that my hear-
24 say objection is reserved and I need not say it
25 again?

1
2 MR. SCHLICHTMANN: Sure.

3 MR. CHEESEMAN: Secondly, I would just
4 say the question obviously requires a yes answer
5 because we already know that the witness was
6 involved in some investigation of activities at
7 the Woburn plant.

8 MR. SCHLICHTMANN: Right.

9 MR. CHEESEMAN: Are you excluding that
10 from the question?

11 MR. SCHLICHTMANN: Let him say yes. If
12 he says Woburn, I will find out.

13 A Yes.

14 Q Does that include plants other than Woburn or just
15 Woburn?

16 A Just Woburn.

17 Q It has never come to your attention any other
18 plants of the Cryovac Division had disposed of
19 industrial solvents on the ground other than
20 Woburn?

21 MR. CHEESEMAN: I think you asked about
22 the period prior to 1980.

23 Q Prior to 1980.

24 A That is correct.

25 Q So to your knowledge then, the only plant which has

1
2 come to your attention that has disposed of
3 industrial solvents on the ground beginning with
4 your association with W. R. Grace in the mid 1960s
5 until 1980, that is the Woburn plant?

6 MR. CHEESEMAN: I am confused. You
7 said, "to your knowledge?"

8 MR. SCHLICHTMANN: Right.

9 MR. CHEESEMAN: And then you said, "to
10 your attention."

11 Q To your personal knowledge, the only plant which
12 has engaged in the practice of disposing
13 industrial solvents on the ground for the period
14 where you began your association with W. R. Grace
15 in the mid 1960s until 1980 was the Woburn plant?

16 MR. CHEESEMAN: I am confused again.
17 He has already testified he didn't personally
18 observe any such incidents, and I assume that
19 would include the Woburn plant.

20 Q The only plant to which it has come to your
21 attention, from whatever source, that --

22 MR. CHEESEMAN: Prior to 1980.

23 Q -- prior to 1980, between the mid '60s and 1980,
24 the only plant which engaged in the practice of
25 disposal of industrial solvents on the ground is

1
2 the Woburn plant?

3 MR. CHEESEMAN: I object. It implies
4 there was a practice of doing that at the Woburn
5 plant.

6 MR. SCHLICHTMANN: Okay. I will not use
7 the word "practice."

8 Q The only plant which has come to your attention
9 that has engaged in disposal of industrial
10 solvents on the ground from the mid 1960s to 1980
11 was the Woburn plant?

12 MR. CHEESEMAN: Can I have that question
13 read back?

14 THE REPORTER: Question: The only plant
15 which has come to your attention that has engaged
16 in disposal of industrial solvents on the ground
17 from the mid 1960s to 1980 was the Woburn plant?

18 MR. CHEESEMAN: You're asking about
19 information that came to his attention prior to
20 1980?

21 MR. SCHLICHTMANN: Yes.

22 A Correct.

23 Q After 1980, Mr. Stewart, you have received
24 information that other plants of the Cryovac
25 Division, other than the Woburn plant, had at one

1
2 time or another disposed of industrial solvents on
3 the ground?

4 MR. CHEESEMAN: I think I will object to
5 that question based on relevancy. Specific
6 activities of that sort might or might not have
7 occurred at other plants that are not an issue in
8 this lawsuit are entirely beyond the area you are
9 entitled to inquire into. Unless you can tell me
10 why, Jan, how it could lead to admissible
11 evidence --

12 MR. SCHLICHTMANN: Don't you think it
13 would be relevant if all the plants did engage in
14 that activity even if it didn't come to
15 Mr. Stewart's attention until 1980? It is
16 conceivable other people involved with the Cryovac
17 Division, that that should have been brought to
18 their attention as well.

19 MR. CHEESEMAN: Activities at other
20 plants other than Woburn could not be relevant.

21 MR. SCHLICHTMANN: Other than the fact
22 all the plants or many of the plants engaged in
23 the same activity. I think it has relevance as to
24 whether Cryovac should have had a policy or not
25 regarding that.

1
2 MR. CHEESEMAN: I disagree. I believe
3 that Judge Skinner began a hearing on discovery,
4 on the scope of discovery, sometime ago by saying
5 that activities at other plants was beyond the
6 scope of relevancy, of relevant discovery.

7 I would object to that. I would suggest,
8 being mindful of Judge Skinner's direction that
9 rather than instruct the witness not to answer the
10 question and go to the judge, I would suggest that
11 you either consider not pressing the question or if
12 you want to press it, that we come back to that at
13 the conclusion of the deposition rather than
14 forcing me to suspend at this time.

15 MR. SCHLICHTMANN: Fine. It is
16 obviously an issue between us. At this time,
17 without prejudicing my right to have the question
18 answered and your right to object to it, we will
19 hold the issue between us and at a later time we
20 can decide how to resolve it. I think it will
21 become an issue.

22 My understanding is you do not want
23 there to be inquiry into this area until the issue
24 is resolved?

25 MR. CHEESEMAN: That is right.

1
2
3 MR. SCHLICHTMANN: Fine.

4 MR. CHEESEMAN: As I indicated earlier,
5 I don't object to some general background questions
6 about the nature of operations at the other
7 Cryovac plants or the nature of Cryovac's business.
8 But I understand your last question to inquire as
9 to specific disposal incidents at other plants
10 other than the Woburn plant. I think that would
11 be beyond what would reasonably lead to discovery
12 of admissible evidence in this case.

13 MR. SCHLICHTMANN: I want to reserve
14 both our rights. I don't want to suspend this
15 deposition. This witness is from out of state.
16 I don't want to prolong the deposition any longer
17 than I have to. I think the issue will have to
18 be resolved. I don't want to prejudice my rights.

19 MR. CHEESEMAN: As far as I'm concerned,
20 if you wish to pursue that kind of information by
21 interrogatory to us, that would be an appropriate
22 means of doing it, and we would not object.

23 MR. SCHLICHTMANN: I don't want to
24 prolong the deposition. I think we understand
25 each other.

MR. CHEESEMAN: Thank you.

1
2 Q Mr. Stewart, one of your duties was to inspect the
3 various plants of the Cryovac Division, including
4 the Woburn plant, from time to time; is that
5 correct?

6 A I think you have to define "inspect" for me.

7 Q Before I get into that area, let me finish up on
8 this line of inquiry.

9 To your knowledge, were the resources of
10 W. R. Grace Corporation available to you to answer
11 questions concerning chemicals used in the
12 manufacturing process of the Cryovac Division or
13 the plants of the Cryovac Division?

14 A Yes.

15 Q And to your knowledge, W. R. Grace has lots of
16 operations dealing with chemicals and their
17 properties?

18 MR. CHEESEMAN: You're asking about
19 W. R. Grace's resources and operations outside of
20 the Cryovac Division?

21 MR. SCHLICHTMANN: Exactly.

22 A Yes.

23 Q Well, in other words, you were aware that there
24 were lots of highly qualified and trained experts
25 in the areas of engineering, chemical engineering,

1
2 toxicology, health, safety and so on in the other
3 divisions of W. R. Grace?

4 MR. CHEESEMAN: I will object to the
5 use of the term "lots."

6 I would ask the witness be mindful of
7 the specific areas of expertise Mr. Schlichtmann
8 just gave.

9 MR. SCHLICHTMANN: Let me change the
10 question. I agree with the objection.

11 Q Mr. Stewart, to your knowledge, the other resources
12 of the other divisions of W. R. Grace Corporation
13 were available to answer any inquiry you may have
14 regarding environmental-health matters or safety
15 matters; is that true?

16 A That is correct.

17 Q And to your knowledge, the other divisions of
18 W. R. Grace Corporation had experts in the various
19 fields of health, safety, toxicology or toxic
20 substances?

21 A I have no knowledge of all the divisions of W. R.
22 Grace.

23 Q Was it your knowledge, your general knowledge,
24 there were various experts in the various other
25 divisions of W. R. Grace Corporation which did

research or had knowledge of various health,
safety, toxicological or toxic substances matters?

MR. CHEESEMAN: You're asking in one or
more of the divisions?

MR. SCHLICHTMANN: Right.

A Yes.

Q W. R. Grace Corporation is a large corporation?

A Yes.

Q Has a long history of research and development in
the area of chemicals?

MR. CHEESEMAN: The witness is answering
so quickly. I want to object to the last question.
I don't know what you mean by a large corporation.

MR. SCHLICHTMANN: It's very large.

MR. CHEESEMAN: It was once a shipping
company.

MR. SCHLICHTMANN: And Mr. Grace did a
hell of a job to make it more than a shipping
company.

MR. CHEESEMAN: I would suggest this
sort of information can be handled by stipulation
or reading the company's reports. I don't know
that this witness --

MR. SCHLICHTMANN: The point I want to

1
2 make --

3 MR. CHEESEMAN: -- can answer that
4 question.

5 Q Well, if you had some particular questions about
6 the toxic properties of chemicals which were being
7 used in the various manufacturing processes of the
8 various plants of the Cryovac Division, is it fair
9 to say you could have made inquiries, if you
10 wished, or made use of the other resources of the
11 other divisions of the W. R. Grace Corporation to
12 answer those questions?

13 A I could have.

14 Q And from time to time you did?

15 A Yes.

16 Q Did you do so in trying to answer questions about
17 the various toxic properties or alleged toxic
18 properties of various industrial solvents the
19 plant may be using?

20 A I don't recall that I asked that specific
21 question of anything -- of anybody outside of the
22 Cryovac Division.

23 Q So you don't recall?

24 A I don't recall.

25 Q You don't recall ever going outside Cryovac

1
2 Division to ask any questions which you might have
3 had about the toxic properties or alleged toxic
4 properties of various industrial solvents that the
5 plants of the Cryovac Division used in the
6 manufacturing process?

7 A That is correct.

8 Q At any time, to your knowledge, did any other
9 division of W. R. Grace Corporation or did
10 W. R. Grace Corporation, outside of the Cryovac
11 Division, ever supply your office or the various
12 plants of the Cryovac Division with information
13 concerning the toxic properties or the alleged
14 toxic properties of the various industrial
15 solvents that the Cryovac Division plants made use
16 of?

17 A I am sure that at some point there must have been
18 some correspondence involving the alleged toxic
19 qualities of the industrial solvents that you're
20 talking about.

21 Q Why do you make that assumption?

22 MR. CHEESEMAN: I am not sure he said
23 it was an assumption. I don't know myself whether
24 he was stating his memory or --

25 Q When you said you were sure, why did you say you

1
2 were sure that is the case?

3 A At the time that the various -- the various times
4 that various government agencies began to
5 investigate the alleged toxic qualities of some of
6 the industrial solvents that we have been
7 discussing, it is my belief that information
8 probably was sent to us, information of a general
9 nature informing us of such investigations.

10 Q What office sent that to your attention?

11 A The office of Health, Safety and Toxicology of the
12 Industrial Chemicals Group of W. R. Grace &
13 Company.

14 Q Where is that located?

15 A Cambridge, Mass.

16 Q Right across the river?

17 A (Witness nods in the affirmative).

18 Q Is that a special division of W. R. Grace
19 Corporation?

20 MR. CHEESEMAN: Is what?

21 MR. SCHLICHTMANN: This office.

22 A It is a function within the Industrial Chemicals
23 Group.

24 Q There is an Industrial Chemicals Group within
25 W. R. Grace?

1

2

A Yes.

3

4

Q This particular office was the research office of this group?

5

6

MR. CHEESEMAN: I think he gave the name already.

7

8

MR. SCHLICHTMANN: It sounded great.

9

Q Would you repeat it?

10

A The office of Health, Safety and Toxicology.

11

Q In Cambridge?

A (Witness nods in the affirmative).

12

13

Q Has that Health, Safety and Toxicology office of the Chemicals Group --

14

MR. CHEESEMAN: Industrial.

15

MR. SCHLICHTMANN: Industrial?

16

17

MR. CHEESEMAN: Industrial Chemicals Group.

18

MR. SCHLICHTMANN: That's a hard one.

19

MR. CHEESEMAN: You can call it ICG.

20

21

22

Q How long has the Health, Safety and Toxicology division of the Industrial Chemicals Group been in existence?

23

A I have no idea.

24

25

Q But they did send your office information concerning the alleged toxic properties of various

1
2 industrial solvents?

3 A Yes.

4 Q And kept you abreast of various governmental
5 inquiries or investigations concerning the
6 properties of these industrial solvents?

7 A Yes.

8 Q Did you have constant contact with the Health,
9 Safety and Toxicology division of the Industrial
10 Chemicals Group?

11 MR. CHEESEMAN: I object to the word
12 "constant."

13 A No.

14 Q That was the resource available to you?

15 A That is correct.

16 Q They did have contact with you or with your office
17 from time to time?

18 A That is correct.

19 Q They provided information to not only the
20 Cryovac Division but the other divisions of W. R.
21 Grace?

22 MR. CHEESEMAN: If you know.

23 A I don't have any knowledge.

24 Q Do you have any reason to believe that is the
25 case?

1
2 A They were a source within ICG and probably
3 performed the same function within ICG. Beyond
4 that, I have no knowledge.

5 Q You don't know how long ICG has been in existence,
6 do you?

7 A No.

8 Q Or how long Health, Safety and Toxicology of the
9 ICG has been in existence?

10 A No.

11 Q I show you a document that has been marked in the
12 deposition of Paul Shalline.

13 MR. CHEESEMAN: A version of which has
14 been marked as an exhibit to the Paul Shalline
15 deposition.

16 Q You're familiar with that document?

17 A Yes.

18 MR. SCHLICHTMANN: Can we have that
19 marked?

20 (Two-page memo dated May 8,
21 1975, marked Stewart Exhibit
No. 2.)

22 Q Was that document, Stewart Exhibit 2, the first
23 time you informed the various divisions of the
24 Cryovac Division to set up a hazardous substance
25 or toxic materials file?

1
2 MR. CHEESEMAN: You mean the various
3 plants of the Cryovac Division?

4 MR. SCHLICHTMANN: Right.

5 A Yes; a specific file.

6 Q And prior to May 8, 1975, do you ever recall
7 disseminating information or your office
8 disseminating information to the various plants
9 of the Cryovac Division concerning hazardous
10 substances or toxic materials?

11 A Yes.

12 Q Do you remember what occasions those were?

13 A OSHA covered a variety of so-called hazardous,
14 alleged hazardous substances and alleged toxic
15 substances, and in conjunction with OSHA we would
16 obviously have delved into those matters.

17 Q In this memo you sent to the various plants, at
18 the top left hand corner it has a list of names
19 with various places: Cedar Rapids, Simpsonville,
20 Iowa Park, Camarillo, Duncan and Woburn; is that
21 right?

22 A Yes.

23 Q Those are the various plants of the Cryovac
24 Division?

25 MR. CHEESEMAN: Are you asking if those

are all the plants?

MR. SCHLICHTMANN: Or some of them.

MR. CHEESEMAN: As of the date of the
memo?

MR. SCHLICHTMANN: As of the date of the
memo.

A As of the date of that memo, those were most of the
facilities of the Cryovac Division, Formpac
Division and Grace Distribution Services Division.

Q Prior to May 8, 1975, do you ever remember sending
a stop-use order or did your office send a stop-
use order to any plant of Cryovac Division
regarding industrial solvents?

A No.

Q Was this the first time a stop-use order of any
type, to your knowledge, was sent by Cryovac
Division to the various plants of Cryovac?

A Yes.

Q Was this an unusual step?

MR. CHEESEMAN: Objection.

MR. SCHLICHTMANN: It's well taken.

MR. CHEESEMAN: It was the first one at
the time, so I guess at the time it was unique.

Q Well, at the time it was unique?

MR. CHEESEMAN: Objection. Go ahead and answer. He already said it was the first time.

MR. SCHLICHTMANN: I will stick with that.

Q What was the reason you sent the stop order, the stop-use order concerning trichloroethylene and toluene?

A Quoting from my memo now: "Considerable far-reaching legislation is now in the works on this broad subject which will take us far beyond the Airborne Contaminant and carcinogenic substances now listed in Section 1910.93."

The federal government was investigating the alleged toxic or hazardous nature of some substances when -- and when that came to our attention, we so informed our plants.

Q Well, had W. R. Grace Corporation made a decision that these substances, trichloroethylene and toluene, would no longer be used at these plants?

MR. CHEESEMAN: You're asking if Grace had ever --

MR. SCHLICHTMANN: As opposed to Cryovac.

1
2 A I have no knowledge.

3 Q Did the Cryovac Division make this decision on its
4 own or was this a W. R. Grace Corporation decision
5 that would affect all its divisions?

6 A Exhibit 2 is a Cryovac Division document.

7 Q I understand that. But what I want to know is,
8 to your knowledge, did Cryovac Division make this
9 decision on its own that trichloroethylene and
10 toluene no longer be used by its various plants
11 or was this decision to cover all divisions of
12 W. R. Grace?

13 A I have no knowledge.

14 Q You have no idea?

15 A The Cryovac Division made this decision. You
16 asked whether or not W. R. Grace made the decision,
17 and I have no knowledge.

18 Q Was this decision made by you?

19 A Yes.

20 Q You made this decision and you transmitted this
21 decision to the various plants of the Cryovac
22 Division?

23 A Yes.

24 Q Did you have to clear the decision that you made
25 with any officers or officials of either Cryovac

1
2 Division or W. R. Grace who you were subordinate
3 to?

4 A Yes.

5 Q Who did you have to clear it with?

6 A My immediate superior.

7 Q Mr. Baird?

8 A Mr. McElhiney.

9 Q And to your knowledge, did Mr. McElhiney clear that
10 decision with anyone else, with higher-ups in
11 Cryovac or W. R. Grace?

12 A It would be normal procedure on instances of this
13 nature for Mr. McElhiney to inform his superior
14 and others who were involved in this area of such
15 a happening.

16 Q Would that include people who were associated
17 outside the Cryovac Division?

18 A No.

19 Q To your knowledge, was this a decision solely
20 made by Cryovac Division?

21 MR. CHEESEMAN: You mean so far as he
22 is aware?

23 Q So far as you're aware.

24 A As far as I'm aware.

25 Q You have no reason to believe this decision, that

1
2 anyone was consulted or conferred with outside of
3 the Cryovac Division who was associated with
4 W. R. Grace Corporation?

5 A That is correct.

6 Q Now, is it fair to say this was a decision which
7 you initiated and decided prior to passing it on
8 to Mr. McElhiney or some other individual?

9 A I discussed it with my superiors and then took
10 this action.

11 Q Did the original idea to stop use of these
12 chemicals originate with you?

13 A Yes.

14 Q Could you outline for us as best you can the
15 reasons which you had to stop use of these
16 chemicals, trichloroethylene and toluene, by the
17 various plants of the Cryovac Division?

18 A Information came to my attention that these
19 substances were under scrutiny for alleged toxic
20 or hazardous or carcinogenic properties by the
21 federal government, and I acted on that
22 information.

23 Q How did that come to your attention?

24 A I do not have a specific recollection. It may
25 have been either the Federal Register, BNA

1
2 reports or both.

3 Q So is it fair to say it came to your attention
4 during your normal research in this area that
5 toluene and trichloroethylene were considered to
6 be or suspected to be carcinogenic and therefore,
7 you made the decision, which you then cleared with
8 others in Cryovac Division, to order the plants of
9 Cryovac Division to cease use of these two
10 chemicals?

11 MR. CHEESEMAN: I object to the
12 question having multiple parts, and to the extent
13 it is intended to paraphrase or quote what the
14 witness already testified to.

15 MR. SCHLICHTMANN: He can tell me if it
16 is accurate or not.

17 MR. CHEESEMAN: I am objecting because
18 it is not fair.

19 MR. SCHLICHTMANN: If Mr. Stewart agrees
20 with you, you win.

21 MR. CHEESEMAN: There are so many facets
22 to that question that I don't think he can answer
23 it simply.

24 MR. SCHLICHTMANN: Let me withdraw the
25 question.

1
2 MR. CHEESEMAN: I don't mean to be cute.
3 The stop-use order specifically indicates that the
4 substances have been cited as a carcinogenic
5 substance, as having potential carcinogenic
6 hazards, or as having other proven or potential
7 serious health hazards. You left out most of those
8 aspects in your question.

9 (Brief pause)

10 (Memo dated September 18, 1983,
11 marked Exhibit No. 3.)

12 (NIOSH recommendation on
13 trichloroethylene, marked
Exhibit No. 4.)

14 (Memo dated August 4, 1967,
marked Exhibit No. 5.)

15 (Memo dated March 22, 1967,
16 marked Exhibit No. 6.)

17 (Two pages of handwritten
18 notes, marked Exhibit
No. 7.)

19 (Memo dated August 24, 1973,
marked Exhibit No. 8.)

20 (Memo dated November 22, 1967,
21 marked Exhibit No. 9.)

22 (Memo dated May 20, 1974,
marked Exhibit No. 10.)

23 (Two-page list, marked Exhibit
24 No. 11.)
25

1
2 Q Mr. Stewart, I show you what has been marked
3 Shalline Exhibit 3 from a previous deposition.
4 You have had an opportunity to look at that?

5 A Yes.

6 Q At any time have you ever seen that document at
7 all prior to today?

8 A Yes.

9 Q When did you first see that?

10 A Our attorney showed it to me.

11 Q That was after the litigation?

12 A Correct.

13 Q Prior to the litigation in this case, had you seen
14 that?

15 A No.

16 Q Do you know if a copy of that was on file in your
17 office?

18 A To my knowledge, no.

19 MR. CHEESEMAM: You want to go to the
20 next one?

21 MR. SCHLICHTMANN: Okay.

22 Q This is Stewart Exhibit 6. Have you ever seen
23 that document before?

24 A No.

25 Q When was --

1
2 A I beg your pardon. I believe I have seen this with
3 my attorney.

4 Q Prior to commencement of litigation in this case,
5 had you seen this document?

6 A No.

7 MR. CHEESEMAN: I think when he said
8 "my attorney" he was referring to me.

9 MR. SCHLICHTMANN: W. R. Grace's
10 attorney?

11 MR. CHEESEMAN: Right.

12 THE WITNESS: This one (Indication).

13 Q This particular document talks about a pollution
14 control officer being appointed by Bill Baird.
15 Do you know what that document is referring to?
16 Do you have any other knowledge of a pollution
17 control officer being appointed by Bill Baird in
18 the late '60s?

19 MR. CHEESEMAN: I think it refers to
20 the future.

21 MR. SCHLICHTMANN: Right.

22 MR. CHEESEMAN: I believe we mentioned
23 to you before it is not clear from the document
24 whether it was referring to Woburn's pollution
25 control officer or headquarters' pollution control

officer.

MR. SCHLICHTMANN: I want to see if

Mr. Stewart can help me on that.

A At some point in time, and I cannot tell you the specific time, Mr. Baird appointed a pollution control officer.

Q At the Woburn plant or for the Cryovac Division?

A Cryovac Division.

Q Do you know who that pollution control officer was?

A I believe it was Richard Stewart.

Q Would that be the same Richard Stewart who is sitting here today?

A Same one.

Q Do you believe you became pollution control officer in the late '60s?

A I don't recall the date.

Q Was it required that each of the plants of the Cryovac Division appoint a pollution control officer at each of the plants answerable to you?

A The first part of the question, it was not required that each plant have a pollution control officer; second part of your question, none of the plants' pollution contacts or environmental contacts were answerable to me because they all

1
2 were answerable to the plant managers.

3 Q Were you in an advisory role?

4 A Correct.

5 Q To your knowledge then, was it required of each
6 plant to appoint a pollution control officer for
7 pollution control at each plant?

8 A Each plant had a person who, to my knowledge, was
9 my environmental contact.

10 Q Do you know when that policy went into effect?

11 A At the same time that Mr. Baird appointed a
12 pollution control officer for Cryovac.

13 Q And you believe that took place in the late 1960s,
14 sometime after 1967?

15 MR. CHEESEMAN: I think he --

16 A I do not have a recollection.

17 Q But somewhere about the late 1960s, sometime
18 after 1967, you think?

19 A Yes.

20 MR. CHEESEMAN: Can I have a moment
21 with the witness?

22 MR. SCHLICHTMANN: Sure.

23 (Pause)

24 MR. CHEESEMAN: Next question.

25 MR. SCHLICHTMANN: Is there anything

1
2 you want to clarify?

3 MR. CHEESEMAN: No.

4 Q To your knowledge, was Paul Shalline appointed
5 environmental contact to the pollution control
6 officer at the Woburn plant?

7 A I have no knowledge as to his being appointed any
8 particular title.

9 Q Was it your understanding that Paul Shalline was
10 the environmental contact concerning environmental
11 matters at the Woburn plant?

12 A I would answer the question in this manner: In
13 most cases on environmental matters, when we
14 contacted the Woburn plant we were referred to
15 Paul Shalline to provide information.

16 Q Was there any other person you were referred to
17 other than Paul Shalline at any other time?

18 MR. CHEESEMAN: For environmental
19 reasons?

20 MR. SCHLICHTMANN: Yes.

21 A At the Woburn plant?

22 Q Yes.

23 A No.

24 Q Now, prior to your appointment at Cryovac
25 Division as pollution control officer, was there

1
2 a person responsible for pollution control affairs
3 to your knowledge?

4 MR. CHEESEMAN: You're asking at the
5 divisional level?

6 MR. SCHLICHTMANN: Right.

7 A To my knowledge, it has always been the philosophy
8 of Cryovac Division to be interested in the
9 environment and there has always been an
10 individual who performed that function.

11 Q Do you know who it was prior to you performing
12 the functions?

13 A Mr. Fran W. Greenough.

14 Q Is he still associated with the Cryovac Division?

15 A Deceased.

16 Q Was there anybody who was responsible prior to
17 him?

18 A I have no knowledge.

19 Q What were your qualifications in the area of
20 pollution control which qualified you to take over
21 as pollution control officer for the Cryovac
22 Division?

23 MR. CHEESEMAN: I object to the form of
24 the question. You may answer.

25 A The ability to read the Federal Register, Bureau

1
2 of National Affair reports, other information that
3 I had available to me; and understanding those
4 sources of information; and being able to pass
5 that information on to the plants as necessary.

6 Q Had you received any specialized training in
7 pollution control or matters concerning
8 pollution?

9 A Prior to '65?

10 Q Yes.

11 A No.

12 Q Prior to your appointment as pollution control
13 officer, had you received specialized training of
14 any kind?

15 MR. CHEESEMAN: Relating to those
16 matters?

17 MR. SCHLICHTMANN: Relating to pollution
18 control.

19 A I attended seminars, the usual routine method of
20 gaining knowledge.

21 Q In any of the seminars you attended, did you ever
22 receive information concerning whether a pouring
23 of industrial solvents on the ground was a proper
24 practice or an approved practice?

25 A I have no recollection.

1
2 Q In any of the seminars you attended, did you ever
3 receive information that it was not a good idea
4 for whatever reason to pour industrial solvents on
5 the ground as a means of disposal?

6 MR. CHEESEMAN: I object to the form of
7 the question. Are you asking about seminars at
8 any point in time?

9 MR. SCHLICHTMANN: At any point.

10 MR. CHEESEMAN: So that would include
11 whether it was a good idea to do because it was
12 illegal?

13 MR. SCHLICHTMANN: Prior to 1980.

14 A To my knowledge, no.

15 Q To your knowledge, what were the qualifications
16 of Mr. Paul Shalline to be the environmental
17 contact person at the Woburn plant, or do you
18 have any knowledge as to his qualifications in
19 that regard?

20 A I have no knowledge.

21 Q We will go to the next document.

22 MR. CHEESEMAN: Stewart Exhibit 5?

23 MR. SCHLICHTMANN: Yes.

24 Q Do you remember ever seeing that document?

25 MR. CHEESEMAN: For the sake of

1
2 convenience, could you phrase this series of
3 questions as "do you remember having seen the
4 document prior to the commencement of this law-
5 suit in May of 1982?"

6 MR. SCHLICHTMANN: Fine.

7 Q Do you remember reviewing this document or seeing
8 it prior to the commencement of this lawsuit in
9 1982?

10 A I don't recall having seen this document.

11 MR. SCHLICHTMANN: What is the next
12 document?

13 MR. CHEESEMAN: Exhibit 9.

14 Q Do you remember reviewing Exhibit 9 prior to the
15 commencement of the lawsuit in 1982?

16 A I do not.

17 MR. SCHLICHTMANN: And the next
18 document?

19 MR. CHEESEMAN: Exhibit 7.

20 Q Do you remember reviewing Exhibit 7 prior to the
21 commencement of the lawsuit in May of 1982?

22 MR. CHEESEMAN: This is two pages of
23 handwritten notes.

24 A No.

25 MR. SCHLICHTMANN: Next document?

MR. CHEESEMAN: This is Stewart Exhibit 11.

Q Do you ever remember seeing that document prior to the commencement of the lawsuit in May of 1980?

A No.

MR. SCHLICHTMANN: The next one?

MR. CHEESEMAN: Stewart Exhibit 3.

Q This is a memo to you, so I assume that you are familiar with this document prior to the commencement of the lawsuit?

MR. CHEESEMAN: If you remember.

A Yes.

Q And do you ever remember receiving this memo from Mr. Gunnard?

A Yes.

Q Did you ever have any conversation with Mr. Gunnard about the phasing out of solvents at the Woburn plant?

A No.

Q So your only memory of that is this memo itself?

A Yes.

MR. SCHLICHTMANN: Next document?

MR. CHEESEMAN: Stewart Exhibit 8.

Q You're familiar with this document?

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A Yes.

Q Is this document -- What is the number on this document?

A 8.

Q Stewart Exhibit 8, is this the first time you informed the plants at the Cryovac Division that they should stop using or cease using toluene or trichloroethylene?

MR. CHEESEMAN: Wait just a minute.

MR. SCHLICHTMANN: That is down at the last paragraph.

MR. CHEESEMAN: I guess I will object to the form of the question. I believe you characterized this as a request.

MR. SCHLICHTMANN: A recommendation.

Q Mr. Stewart, is Stewart Exhibit 8 the first communication that you sent to the various plants of Cryovac Division recommending that the plants cease use of toluene and trichloroethylene?

A That is correct.

Q And at this point this was a recommendation and was not an order; is that correct?

A Correct.

Q Is the reason that you issued this recommendation

the reasons that are set forth in this document or are there other reasons other than as set forth in this document?

A The reasons are set forth in this document.

Q There are no other reasons?

A No.

Q Now, Mr. Stewart, did it ever come to your attention between 1973 and 1980 that any of the plants had ceased use of toluene or trichloroethylene and had disposed of them on the property by pouring them on the ground?

A No.

Q Did it ever come to your attention before sending out this document, Mr. Stewart, between --- in August of 1973 and 1980, that the Woburn plant ceased use of toluene or trichloroethylene by pouring them on the ground?

A No.

Q Did you ever at any time have any conversation with Mr. Greenough about the practices of the various plants of the Cryovac Division concerning the disposal of industrial solvents?

A No.

Q You don't remember any?

1
2 A No.

3 MR. SCHLICHTMANN: What do you have
4 next, Bill?

5 MR. CHEESEMAN: Stewart Exhibit 10.

6 Q Have you ever seen this document prior to the
7 commencement of the lawsuit in May of 1982?

8 A No.

9 MR. SCHLICHTMANN: And the last
10 document?

11 MR. CHEESEMAN: Stewart Exhibit 4.

12 Q Do you ever remember seeing that prior to the
13 commencement of the lawsuit in May of 1982?

14 A No.

15 Q Mr. Stewart, during your two-day investigation of
16 the Woburn plant to answer the EPA's letter, did
17 you at any time during that investigation or at
18 any time subsequent to that or after that
19 investigation, did you ever review any purchase
20 orders or any documents concerning or evidencing
21 the purchase of chemicals by the Woburn plant?

22 MR. DeGIACOMO: Do you mean the witness
23 personally?

24 MR. SCHLICHTMANN: Yes.

25 MR. CHEESEMAN: When you refer to the

two-day investigation, I assume you're referring to the two days Mr. Stewart spent --

MR. SCHLICHTMANN: In January of 1982.

MR. CHEESEMAN: -- at the plant?

MR. SCHLICHTMANN: That is right.

A I have seen documents listed as purchase requisitions or similar to that since that time in conference with my attorney.

Q Prior to the instigation of the lawsuit in May of 1982, had you ever reviewed any purchase orders or any documents relating to the purchase of chemicals at the Woburn plant?

A No.

MR. CHEESEMAN: Not so quick, please.

The last part of that question is very broad. I don't know whether or not any of the exhibits we already looked at refer to relate to the purchase of chemicals in any way.

Q If you don't mind just flipping through these documents here and telling us if you remember at any time reviewing these documents relating to the purchase of chemicals at the Woburn plant which have been submitted as a Shalline exhibit.

MR. CHEESEMAN: Are you specifying what

1
2 you're showing him are copies of purchase
3 requisitions that were marked as an exhibit in
4 Mr. Shalline's deposition?

5 MR. SCHLICHTMANN: Yes. And they were
6 Shalline Exhibit --

7 MR. CHEESEMAN: You don't need to get
8 the number.

9 MR. SCHLICHTMANN: They are all purchase
10 orders.

11 MR. CHEESEMAN: You're asking the
12 witness to flip through and get a general
13 impression of the visual appearance?

14 Q Did you ever review copies like this or copies of
15 these documents or the originals?

16 A Any specific time?

17 Q Prior to the instigation of this lawsuit in May of
18 1980.

19 A No.

20 MR. SCHLICHTMANN: Can we agree these
21 are exhibits that were marked 20A through M?

22 MR. CHEESEMAN: I am willing to accept
23 your representation.

24 Q During your investigation at the Woburn plant in
25 January of 1982 or subsequent to that up until

1
2 the time you provided the information to answer
3 the EPA's letter, did you --

4 MR. CHEESEMAN: I will object already
5 because of the "information provided" aspect of
6 the question.

7 Q At any time during your two-day investigation in
8 the Woburn plant in January of 1982 or the time
9 after that until you completed your investigation
10 and submitted your report about the results of the
11 investigation, did you at any time see any
12 documents which evidenced the purchase of
13 chemicals by the Woburn plant?

14 A No.

15 MR. CHEESEMAN: I just want to state,
16 not as an objection, but the use of the phrase
17 "at the time Mr. Stewart completed his
18 investigation" should not be understood to mean
19 that --

20 MR. SCHLICHTMANN: Grace's investiga-
21 tion?

22 MR. CHEESEMAN: -- Grace or Cryovac
23 Division had completed inquiry into matters of
24 this nature.

25 MR. SCHLICHTMANN: Prior to its reply

1
2 to the EPA?

3 MR. CHEESEMAN: I don't understand what
4 you just said.

5 MR. SCHLICHTMANN: Vin Forte's reply
6 in --

7 MR. CHEESEMAN: Leave the question and
8 answer the way it was.

9 MR. SCHLICHTMANN: Do you want to
10 qualify it in some way or something? It is
11 important.

12 MR. CHEESEMAN: I understand your
13 question related to the use of the word
14 "completed."

15 MR. SCHLICHTMANN: Mr. Stewart's
16 investigation.

17 MR. CHEESEMAN: I assume you mean --

18 MR. SCHLICHTMANN: His personal
19 investigation.

20 Q Did you understand the question? Let me try it
21 again.

22 During your two-day investigation in
23 the Woburn plant in January of 1982 or times
24 after that up until the time you completed your
25 personal investigation and the report you

1
2 submitted concerning the results of that
3 investigation, did you at any time review any
4 documents which evidenced the purchase of
5 chemicals by the Woburn plant?

6 A No.

7 Q Did you review any such documents evidencing the
8 purchase of chemicals of the Woburn plant prior
9 to the commencement of this lawsuit in May of
10 1982?

11 MR. CHEESEMAN: Documents?

12 MR. SCHLICHTMANN: Evidencing the
13 purchase of chemicals at the Woburn plant.

14 A No.

15 Q To your knowledge, did anybody at Cryovac
16 Division review documents evidencing the purchase
17 of chemicals at the Woburn plant prior to the
18 commencement of litigation in May of 1982?

19 A I have no knowledge.

20 Q Now, Mr. Stewart, from time to time one of your
21 obligations was to go to visit the various plants
22 of the Cryovac Division regarding various matters
23 relating to your responsibility?

24 A Correct.

25 Q In fact, one of your responsibilities was to

1
2 help the plants in all aspects of, or aspects
3 relating to the construction of additions or the
4 building of plants?

5 A That is correct.

6 Q And it was your responsibility to review plans for
7 such additions or the construction of additions or
8 the construction of the plants themselves as well
9 as all the systems relating thereto?

10 A Yes.

11 Q And it was your responsibility to pass on the
12 acceptability of these plans or construction and
13 the systems relating to the plants?

14 A If you would define "systems relating to the
15 plants?"

16 Q I mean the drainage system, electrical system, all
17 the other engineering systems.

18 A Yes.

19 Q That was your responsibility?

20 MR. CHEESEMAN: You're asking if he was
21 the one with that responsibility?

22 Q That was one of your responsibilities?

23 A One of my responsibilities, yes.

24 Q Were you the one who was ultimately responsible
25 for overseeing or observing the completion of that

1
2 construction?

3 A No.

4 Q Was there someone else over you?

5 A Yes.

6 Q Who would that be?

7 A Mr. McElhiney.

8 Q Did Mr. McElhiney, to your knowledge, ever visit
9 the Woburn plant?

10 A Yes.

11 Q Did he visit the Woburn plant in your company?

12 A Yes.

13 Q Did he ever visit the plant without you to your
14 knowledge?

15 A Yes.

16 Q Do you remember how many times he did that?

17 A Many times.

18 Q Was there some reason for him to go to the Woburn
19 plant more than you?

20 MR. CHEESEMAN: Objection.

21 Q To your knowledge?

22 MR. CHEESEMAN: If you understand the
23 question.

24 THE WITNESS: I understand the question.

25 Q Did his responsibilities call for him to go to

Woburn more often than yours for some reason?

MR. CHEESEMAN: Objection to the form as well.

Did he go more often than you as far as you know?

THE WITNESS: Yes.

Q Is there a particular reason why he went more often than you?

MR. CHEESEMAN: If you know.

A Yes.

Q What was that reason?

A He was born and raised in Boston and had family in Boston, and obviously he would partake of opportunities to come to Boston.

Q Is Mr. McElhiney still alive?

A No.

Q He is dead?

A Yes.

Q Do you know when he died?

A I don't recall the specific date. It was late in the '70s.

Q Are you familiar with the construction of the additions to the Woburn plant in 1966 and 1974, as well as the construction of the warehouse in

1970?

A Yes.

Q Did you review the plans prior to the construction of those additions and the warehouse?

A Along with others, yes.

Q Did you observe or did you oversee the construction of those additions and the warehouse?

A No.

Q Did you ever visit the plant during the construction of those additions and the warehouse?

A Your question is: Did I ever visit the plant during any construction at Woburn?

Q Yes.

A Yes.

Q You were present during some parts of the construction of the first addition?

A No.

Q Were you present at the plant during some parts of the construction of the second addition?

A This is the 1969 to 1970 period?

MR. CHEESEMAN: He is asking about 1974, second addition to the back of the main building.

THE WITNESS: No.

Q Were you present during construction of 1969 to

1

2

1970?

3

A Yes.

4

Q Of the warehouse?

5

A Yes.

6

Q During any of your visits to the Woburn plant,
Mr. Stewart, did you ever see any indication that
waste material or waste liquid was disposed of on
the ground at the Woburn plant?

9

10

A No.

11

Q At no time?

12

A No.

13

Q At any time that you were at the --

14

A You asked a negative question.

15

Q I did?

16

A At no time; the answer is yes.

17

Q I don't want to be confusing.

18

19

I will ask you look at this plan and
see if you're familiar with it. This was
previously marked Sergi Exhibit 2.

20

21

MR. CHEESEMAN: I think Mr. Schlichtmann
represented this was a site plan that was filed for
purposes of obtaining approval of construction of
the second addition.

24

25

Q Is that familiar to you at all? Do you remember

1

2

reviewing a plan like that or that plan?

3

A I have seen this plan.

4

Q You have?

5

A Yes.

6

Q You did review it prior to construction of the
second addition?

7

8

A I have seen it.

9

MR. CHEESEMAN: You don't know when you

10

saw it?

11

THE WITNESS: Not specifically.

12

Q Are you familiar with the system that the Woburn
plant had for the drainage of roof water?

13

14

A I am.

15

Q How would you describe that system?

16

A The plant was designed with a system of sloped
roofs, interior roof drains into a trunk line
which carried the storm drainage water toward the
rear of the plant and eventually put it into what
has been referred to as the south trench.

17

18

19

20

21

Q On this plan it says "existing CI pipe," right?

22

A Uh-huh.

23

Q Do you see that?

24

A Yes.

25

Q That is a cast iron pipe?

1
2 A Yes.

3 Q And prior to construction of the second addition,
4 did the storm water system work such that the
5 storm water was collected in a cast iron pipe which
6 was brought to a manhole behind the main building,
7 and then another pipe went from that manhole to
8 the south trench near the area where the warehouse
9 was later built?

10 A The plans indicate a manhole. I have no specific
11 knowledge of a manhole.

12 Q Well, are you familiar with whether or not there
13 was a manhole to which the trunk line that came
14 from the main line emptied and then another pipe
15 picked up that storm water drainage from that
16 manhole to the south trench?

17 MR. CHEESEMAN: I think that is the
18 question you just asked. He said he does not have
19 any recollection of that himself.

20 MR. SCHLICHTMANN: Okay.

21 MR. CHEESEMAN: But he did see it on the
22 plan.

23 Q Was that system in place for the main building?

24 MR. CHEESEMAN: If you have any knowledge
25 of that.

1

2 A The storm drainage system that I described was the
3 system in place.

4 Q In the main building?

5 A Yes.

6 Q Prior to construction of the first addition?

7 A Yes.

8 Q So that we're both clear, in reference to Sergi
9 Exhibit 2, is it fair to say that the main building
10 occupied the space within the black line and blue
11 mark that I have made on it?

12 A That is correct.

13 Q And that where the exhibit indicates an existing
14 cast iron pipe, that cast iron pipe came from the
15 blue line, which would have been the east wall of
16 the main building, carried it to a manhole and
17 then another pipe ran from that manhole to the
18 south trench?

19 A That is what the plan says.

20 MR. CHEESEMAN: You misunderstood the
21 question.

22 Q I mean your knowledge of plans which evidenced the
23 storm water system prior to the construction of
24 the first addition.

25 MR. DeGIACOMO: Independent of the plan?

1
2 MR. CHEESEMAN: He wants to know if you
3 remember there was a pipe existing underground
4 from the rear of the original main plant before
5 any additions were put on, and whether that drain
6 pipe from the rear of the original building went
7 into some kind of container that had a manhole on
8 it and changed direction and continued under-
9 ground for the drainage trench all before the
10 first or second additions were put on.

11 A I have no recollection of manholes. I was aware
12 of the existence of storm drainage system of pipes
13 carrying the water from the roof to the trench.

14 Q To the south trench?

15 A Correct.

16 Q Did you ever see on any plans or did you ever
17 learn from whatever source that the original
18 storm water drainage system acted the same or was
19 built along the same principles as the present
20 storm water drainage system?

21 MR. CHEESEMAN: You're asking about
22 the configuration you just described?

23 MR. SCHLICHTMANN: Exactly.

24 A That is correct.

25 Q In other words, the configuration of storm water

1
2 drainage system as it existed is essentially as it
3 existed for the main building, except for the fact
4 that it was closer toward the main building and ran
5 underneath where there is now the first and second
6 additions?

7 MR. CHEESEMAN: So far as you're aware.

8 Q So far as you're aware.

9 A That is correct.

10 Q You're familiar with the fact that the present
11 system works so that the trunk line comes from
12 the building and then empties into a manhole which
13 is located outside the area of the second
14 addition on the asphalt, and a separate line or
15 pipe goes from that manhole to the south trench
16 and empties the storm water?

17 A Correct.

18 Q That configuration existed prior to the
19 construction of the second addition; is that
20 correct?

21 A With the exception of manholes, and I have no
22 recollection.

23 Q You don't know if the pipe went into a manhole or
24 not?

25 A Correct.

1
2 Q But the pipe did run along the same lines as it runs
3 now and the pipe jogged off to the south trench as
4 it does now, except you don't know about the
5 manhole?

6 MR. CHEESEMAM: And the location of
7 diagonal pipe.

8 Q And the placement of diagonal pipe has changed?

9 A Yes.

10 Q As the building has been built up?

11 A Right.

12 Q Now, do you have any knowledge or have you reviewed
13 any plans which indicated there was a manhole in
14 the area where the first addition was constructed
15 prior to the construction of the first addition?

16 MR. CHEESEMAM: Prior to the construc-
17 tion of the first addition?

18 MR. SCHLICHTMANN: Yes.

19 A I have no knowledge.

20 Q Do you have any reason to believe there was such
21 a manhole?

22 A I have no knowledge.

23 Q You're aware the trunk line came from the main
24 building along the same line that it now does,
25 except that it terminated under where the first

1
2 addition is now constructed and another pipe went
3 off at an angle to the south trench; is that
4 right?

5 A I'm not sure of that; no.

6 Q What is it you're not sure of?

7 A You specifically said that it terminated under
8 where the first addition is.

9 Q Would you be able to draw with a pen on this
10 exhibit, Sergi Exhibit 2, and show us the
11 configuration of the drainage system as it
12 existed for the main building?

13 MR. CHEESEMAN: He said he can't
14 because he is not sure.

15 MR. SCHLICHTMANN: I thought he said he
16 knew how it essentially existed.

17 Q Could you draw that configuration as you are aware
18 it existed?

19 MR. CHEESEMAN: If you can't remember
20 the precise position --

21 Q Can you draw it generally?

22 MR. CHEESEMAN: He can't.

23 Q You can't do that?

24 MR. CHEESEMAN: It is not his testimony
25 that --

1
2 A No.

3 Q In examining that plan, sir, does it not indicate
4 on the plan there was a manhole which existed
5 where the second addition was constructed prior to
6 the construction of the second addition?

7 A The plan so indicates.

8 Q And to your knowledge, did such a manhole exist?

9 A I have no knowledge.

10 Q It was indicated on the plan?

11 A It was.

12 Q Do you have any reason to believe it was not the
13 case?

14 A No knowledge.

15 Q At any time, to your knowledge, did waste
16 material or was waste liquid disposed by pouring
17 it into that storm water drainage system?

18 A I don't know.

19 MR. CHEESEMAM: You mean if he
20 observed anyone pouring something into a manhole
21 cover which he does not remember existing?

22 MR. SCHLICHTMANN: Right.

23 THE WITNESS: The answer is no.

24 Q Or that the storm water drainage system was used
25 for the disposal of waste liquid?

1

2

A The answer is no.

3

Q And you never observed it personally; is that correct?

4

5

A Correct.

6

Q Had it ever come to your attention from whatever source prior to the commencement of the lawsuit in May of 1982 that at any time in the past the storm water drainage system was used for the disposal of waste liquid?

7

8

9

10

11

A Other than storm drainage?

12

Q Other than storm water drainage.

13

A No.

14

Q And that storm water drainage system, its sole purpose, to your knowledge, was to carry off water, storm water, from the roof; is that correct?

15

16

17

18

MR. CHEESEMAN: Do you know if it was used for anything else?

19

20

THE WITNESS: To my knowledge, no.

21

Q It was not used for any other purpose?

22

A To my knowledge, no.

23

24

25

MR. CHEESEMAN: I think we already apprised you there were a couple of other things hooked into that system, like the drinking water

1
2 fountain drain.

3 MR. SCHLICHTMANN: Into the storm water
4 drain?

5 MR. CHEESEMAN: And some air
6 conditioning cooling water also might have been in
7 it. I think there was one other thing of a similar
8 nature involving pure water.

9 Q To your knowledge, were industrial solvents of any
10 kind allowed to drain into that storm water
11 drainage system at the Woburn plant?

12 MR. CHEESEMAN: That he observed?

13 Q To your knowledge, did it ever come to your
14 attention from whatever source or did you
15 personally observe it?

16 A No.

17 MR. CHEESEMAN: You are asking prior to
18 the commencement of the lawsuit.

19 Q In May of 1982, before May of 1982?

20 A No.

21 Q Have you had any conversation with Mr. Forte since
22 your last deposition up until today?

23 A Yes.

24 Q Have you had any conversation with him which had
25 to do with matters involving this lawsuit?

MR. CHEESEMAN: During that time period?

MR. SCHLICHTMANN: During that time period.

MR. CHEESEMAN: If you recall.

A Yes.

Q Would you tell me when those took place and what it concerned?

MR. CHEESEMAN: If you did have any such conversation which were not --

MR. SCHLICHTMANN: Within the attorney-client privilege.

MR. CHEESEMAN: -- which were in the presence of counsel and for the purpose of --

MR. SCHLICHTMANN: Preparing for this case.

MR. CHEESEMAN: -- assisting in the preparation of the case.

MR. SCHLICHTMANN: Exactly.

A No.

Q During your two-day investigation you did talk to Mr. Barbas; is that right?

A That is correct.

Q Now, Mr. Barbas has testified concerning his conversations with you during that investigation.

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Are you aware he so testified?

A I am aware.

Q Did you have an opportunity to review his testimony which he gave at his first deposition in which he talked in detail about what questions you asked him and what information he gave you?

MR. CHEESEMAN: I don't know if we have gotten that down to you yet; I think not.

A No.

Q Have you ever seen a list of changes to Mr. Barbas's original deposition, original two depositions?

A No.

Q During your conversation with Mr. Barbas did you ask Mr. Barbas specific questions about his knowledge about dumping of waste material which may have taken place during 1968 to 1970 at the Woburn plant?

MR. CHEESEMAN: I would ask that question be read back.

THE REPORTER: Question: During your conversation with Mr. Barbas did you ask Mr. Barbas specific questions about his knowledge about dumping of waste material which may have taken

place during 1968 to 1970 at the Woburn plant?

MR. CHEESEMAN: Are you asking the witness if he asked Mr. Barbas any questions that were expressly limited to that time period?

MR. SCHLICHTMANN: Yes.

A No.

Q Did you ask Mr. Barbas any questions concerning his knowledge of dumping which took place at the plant during a specific two-year time period?

A No.

Q Did you ask Mr. Barbas any questions about his knowledge about dumping which may have taken place during a certain time period?

MR. CHEESEMAN: Again, the problem that I have with some of these questions is that a question about dumping at any time implicitly includes a question about any time within that period. You have to be careful as you phrase the question. If what you're asking is did he ask Mr. Barbas that question limited to a certain time period, then I don't have any --

MR. SCHLICHTMANN: All right.

Q Did you ask Mr. Barbas any questions about his knowledge, which was about any dumping which may

1
2 have taken place of waste material, during a
3 specifically limited period of time at the Woburn
4 plant?

5 A I asked Mr. Barbas about the pit, the Manzelli pit
6 if you will.

7 Q Yes.

8 A And if he had any knowledge of the use of the pit.
9 His answer, to the best of my recollection, is that
10 he knew of the pit and he didn't know of any
11 dumping.

12 Q During your questioning of Mr. Barbas, did you ask
13 him about whether he was present during the
14 construction, during any construction phase of the
15 Woburn plant?

16 A I did not ask him that specific question.

17 Q Well, do you remember during your conversation
18 with Mr. Barbas you asked him if he was present
19 at the Woburn plant and observed construction
20 during a certain period of time and he said no,
21 that he had been in Viet Nam during that two-year
22 period?

23 A I don't recall anything like that.

24 Q Do you ever remember discussing with Mr. Barbas
25 he was not at the plant for a period of time

1
2 because he was doing service in Viet Nam?

3 A My best recollection, in casual conversation, was
4 that Mr. Barbas did mention he had been absent
5 from the plant at some period while he was in the
6 service.

7 Q You remember talking to him about that?

8 A It was mentioned in casual conversation.

9 Q Did you question Mr. Barbas concerning anything
10 that he may have observed at the Woburn plant
11 during a certain period of time, and being
12 informed by Mr. Barbas he couldn't have observed
13 anything then because he was doing service in Viet
14 Nam?

15 A No.

16 Q Nothing like that?

17 A No.

18 Q Did you ask Mr. Barbas any questions about
19 whether he observed any dumping or had knew about
20 any dumping of material which had taken place
21 during the construction of the first or second
22 addition or for the construction of the warehouse?

23 A I asked Mr. Barbas specifically about the Manzelli
24 pit and his reply was he had knowledge of it. He
25 did not have any knowledge of anything going in

1
2 that pit.

3 Q My question is different, Mr. Stewart.

4 In any of your questioning of
5 Mr. Barbas did you ever ask him or probe his
6 knowledge about anything he may have known or
7 observed about possible dumping of waste material
8 during the construction of either the first or
9 second addition or the warehouse?

10 MR. CHEESEMAN: Are you asking if the
11 witness asked such a question of Mr. Barbas that
12 was expressly directed to the construction
13 activities you just described?

14 MR. SCHLICHTMANN: Yes.

15 MR. CHEESEMAN: As opposed to a general
16 question about any knowledge he had about any
17 disposal?

18 MR. SCHLICHTMANN: Exactly.

19 A The answer, I think, is no.

20 Q Why do you think it is no?

21 A I am trying to remember the question.

22 MR. DeGIACOMO: You did already ask him
23 about the Manzelli Construction job.

24 MR. SCHLICHTMANN: All right.

25 MR. CHEESEMAN: The witness did refer to

1
2 the Manzelli pit. I am sure the witness will tell
3 you he is aware Manzelli was the construction
4 contractor for the second addition.

5 MR. SCHLICHTMANN: Let me try to keep
6 this time schedule.

7 Q Did you ever ask Mr. Barbas or probe Mr. Barbas's
8 knowledge of any possible dumping which took place
9 during the construction of the first addition?

10 A I did not ask that question.

11 Q Or any questions related thereto?

12 A No.

13 MR. CHEESEMAN: In your last question
14 referring to any questions related thereto, do you
15 mean any questions which were expressly related to
16 the first construction?

17 MR. SCHLICHTMANN: Exactly.

18 MR. CHEESEMAN: Fine.

19 MR. SCHLICHTMANN: Well?

20 MR. CHEESEMAN: He answered the
21 question.

22 Q You said no?

23 MR. CHEESEMAN: Is that the way you
24 understood the question?

25 THE WITNESS: Yes.

1
2 Q Did you ask Mr. Barbas or probe Mr. Barbas's
3 knowledge about any dumping activity which may
4 have taken place during the construction of the
5 warehouse?

6 MR. CHEESEMAN: Specifically addressed
7 to that time period?

8 MR. SCHLICHTMANN: Specifically
9 addressed to that time period in the construction
10 of the warehouse.

11 A No.

12 Q Did you ever ask Mr. Barbas any questions
13 concerning his knowledge or probe his knowledge
14 about whether he knew anything or had heard any-
15 thing about the possible dumping of material in
16 the area in which the construction of the second
17 addition took place?

18 MR. CHEESEMAN: You mean under the
19 foundation and floor?

20 MR. SCHLICHTMANN: And the immediate
21 area surrounding the construction of the second
22 addition.

23 A I didn't ask that question.

24 Q Now, during your two-day investigation or at any
25 time after your two-day investigation,

1
2 Mr. Stewart, prior to the instigation of the lawsuit
3 in May of 1982, did it ever come to your attention,
4 had you ever received any information at all or any
5 indication from whatever source that dumping
6 activities or the disposal of waste material could
7 have taken place during the construction of the
8 first addition?

9 A No.

10 Q I am going to ask the same question be applied to
11 the next question. I am now asking about in
12 reference to construction of the warehouse.

13 A The answer is no.

14 Q And now I am asking the same question in reference
15 to the construction of the second addition other
16 than the pit incident that you described as the
17 Manzelli pit.

18 A The answer is no.

19 Q Now, I will ask the same question apply to any
20 activities which took place at the Woburn plant
21 during any time period of the Woburn plant, except
22 for the pit which you have already described as
23 the Manzelli pit.

24 MR. CHEESEMAN: Do you have the question
25 in mind?

1
2 MR. SCHLICHTMANN: Let's have it read
3 back.

4 THE REPORTER: Question: Now, during
5 your two-day investigation or at any time after
6 your two-day investigation, Mr. Stewart, prior to
7 the instigation of the lawsuit in May of 1982, did
8 it ever come to your attention, had you ever
9 received any information at all or any indication
10 from whatever source that dumping activities or
11 the disposal of waste material could have taken
12 place during the construction of the first
13 addition?

14 Q I will have the question apply for the disposal of
15 waste material on any area of the site other than
16 the pit that you described as the Manzelli pit.

17 MR. CHEESEMAN: May I have a moment?

18 MR. SCHLICHTMANN: Sure.

19 (Pause)

20 A The answer to the question is no.

21 Q And is the answer the same for the period prior to
22 your two-day investigation?

23 MR. CHEESEMAN: Did it --

24 Q In other words, did it ever come to your attention
25 or do you have knowledge of dumping activities

1
2 other than the area you described as the Manzelli
3 pit?

4 MR. CHEESEMAN: You're asking about --

5 MR. SCHLICHTMANN: Did it ever come to
6 his attention.

7 MR. CHEESEMAN: Did it ever come to his
8 attention prior to the January of 1982 trip to
9 Woburn?

10 MR. SCHLICHTMANN: Exactly.

11 MR. CHEESEMAN: Whether there had been
12 any disposal on the ground of the site?

13 MR. SCHLICHTMANN: Exactly, other than
14 the Manzelli pit.

15 MR. CHEESEMAN: Which occurred afterward
16 and is not covered by the question anyway.

17 MR. SCHLICHTMANN: I just want to make
18 sure he understands that.

19 A No.

20 Q You received no such information?

21 A That is correct.

22 MR. CHEESEMAN: During that time frame.

23 Q Now, at any time did Mr. Barbas, prior to the
24 instigation of this lawsuit, had Mr. Barbas ever
25 indicated to you that he had participated or that

others had participated in the dumping of paint sludge or paint material on the ground to the rear of the plant?

A No.

Q At no time?

MR. CHEESEMAN: During the time period you discussed?

Q At no time prior to the instigation of this suit?

A Correct.

Q Had it ever come to your attention at any time prior to the instigation of this lawsuit in May of 1982, Mr. Stewart, any time in the past at the Woburn plant that any individual or individuals had disposed of paint sludge or paint material by disposing of it on the ground to the rear of the plant?

A No.

Q Did it ever come to your attention at any time prior to May of 1982 that the maintenance department at the Woburn plant had disposed of waste liquid or waste solvents on a regular basis by pouring the waste liquid or the waste solvents on the ground, in trenches, in pits or down storm drains?

1
2 A No.

3 Q Did it ever come to your attention prior to --

4 MR. CHEESEMAN: That was other than
5 the Manzelli pit?

6 MR. SCHLICHTMANN: Right.

7 Q At any time prior to May of 1982, did it ever come
8 to your attention from whatever source that Tom
9 Barbas, Joe Meola and others at the Woburn plant
10 had disposed of waste material, waste liquid and/
11 or waste solvents by disposing of these materials,
12 these liquids or solvents, by pouring them into
13 pits, in trenches, on the ground or down storm
14 drains on a regular basis?

15 MR. CHEESEMAN: Other than the Manzelli
16 pit?

17 Q Other than the Manzelli pit?

18 A The answer to all of those, except on the ground,
19 is no.

20 Q Why have you made an exception to that?

21 A During my investigation, my two-day trip, it was
22 indicated that possibly on occasion individuals
23 may have put small amounts of materials on the
24 blacktop outside the back door of the plant.

25 Q Any other information?

1

2

A No.

3

Q You say on the blacktop?

4

A Yes.

5

Q Not on the ground?

6

A Specifically on the blacktop.

7

Q And from --

8

A Paved area.

9

Q The paved area?

10

A Yes.

11

Q The asphalt?

12

A Yes.

13

Q From what source did you get that information?

14

A I do not recall. It was in casual conversation during this investigation.

15

16

Q Was it casual conversation with Paul Shalline?

17

A I do not recall.

18

Q Do you know whether it was casual conversation with Mr. Forte?

19

20

A No.

21

Q You know that was not the case?

22

A I don't know that.

23

Q Could it have been a conversation with Mr. Shalline, do you think?

24

25

MR. CHEESEMAN: He said he does not

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remember.

Q But you do know specifically Mr. Forte did not inform you?

A Yes.

Q You have a specific recollection of that?

A Yes.

Q And you don't know as to Mr. Shalline?

A Correct.

Q Do you think it was casual conversation with Mr. Barbas?

A I don't know.

Q Or was it a conversation with Mr. Orazine?

A It was not.

Q Was it a conversation with Mr. Frank Kelly?

A During my two-day visit I talked to Mr. Shalline, Mr. Barbas and Mr. Kelly specifically, and it came up in one of those conversations as a casual comment.

Q What material did they say would have been disposed of on the paved area?

A Washing water, solvent.

Q Did they say what material contained the solvent or in what form? Was it liquid form?

A Yes.

1
2 Q Did they indicate why it was done?

3 A To the best of my recollection, an employee would
4 have a small pan with small metal parts, and he
5 was cleaning with a water solution or solvent and
6 he would happen to be standing next to the back
7 door where he might dump that small pan containing
8 a cup or two cups or something of solvent out the
9 back door on the blacktop.

10 Q In this conversation, it was said specifically the
11 blacktop and not the ground?

12 A Yes.

13 Q They didn't mention it was a trench along the
14 warehouse?

15 A No.

16 Q Never mentioned that or a ditch along the ware-
17 house?

18 A What is your question?

19 Q They never mentioned it was in a ditch or a trench
20 along the warehouse?

21 A They never mentioned it.

22 Q That the dumping --

23 A Anything was poured in the trench or ditch?

24 Q Yes.

25 A Correct.

1

2

Q They did indicate it was on the asphalt outside
the door to the rear of the building?

3

4

A Correct.

5

6

Q Did they indicate the period of time that this
took place?

7

A No.

8

Q They just said from time to time?

9

A Yes.

10

Q Did they indicate it was a regular practice?

11

A No.

12

Q Or an infrequent practice?

13

A Yes.

14

Q Did they indicate what employees would do that?

15

A Specifically, no.

16

Q But they did indicate it was solvent or liquid
containing solvent that would be dumped that way?

17

18

A Or wash water, something of that nature.

19

Q How about cooling oils?

20

A No.

21

Q But they were specific about solvents?

22

A Yes.

23

Q Did you make any further inquiries about the
period of time that this took place?

24

25

A No.

1

2 Q Or the amounts involved?

3 A No.

4 Q You're not quite sure who you discussed this with?

5 A That is correct.

6 Q Do you remember taking notes of this?

7 A No.

8 Q You obviously heard it, but you don't remember
9 taking notes?

10 A Correct.

11 Q Where do you think these conversations took place?
12 Was this at the Woburn plant itself when you were
13 conducting your investigation?

14 A That is correct.

15 Q Was it during questioning of various people who
16 may have been involved in dumping activities at
17 the plant or who had knowledge about it?

18 MR. CHEESEMAN: I object to the form of
19 the question.

20 A I believe it was mentioned in casual conversation.

21 Q You believe it was casual conversation with
22 employees who you were questioning about their
23 knowledge about possible dumping activities at the
24 plant or waste disposal activities at the plant?

25 A That is correct.

1
2 Q Do you remember if it was more than one employee
3 you talked to about this?

4 A I have no recollection.

5 Q Could it have been more than one?

6 A My primary contact at that time was Mr. Shalline,
7 Mr. Barbas and Mr. Kelly. I assume it was one of
8 those three.

9 Q Mr. Stewart, at your last deposition I showed you
10 an aerial photograph which we told you was an
11 aerial photograph of the plant as it existed in
12 April of 1975, and on that aerial photograph you
13 made markings with a red pen?

14 A Yes.

15 MR. CHEESEMAN: It has the date of
16 April of 1975?

17 MR. SCHLICHTMANN: Right.

18 Q In examining that aerial photograph, would you be
19 able to indicate on that photograph where it was
20 indicated to you the dumping of this waste
21 solvent took place on the asphalt?

22 MR. CHEESEMAN: Do you want him to make
23 a mark?

24 MR. SCHLICHTMANN: If he could.

25 MR. CHEESEMAN: I object generally to

1
2 having a layperson interpret aerial photographs
3 because of the difficulty involved in doing that.
4 I will continue to make that objection. I under-
5 stand I am able to reserve --

6 MR. SCHLICHTMANN: Absolutely.

7 MR. CHEESEMAN: -- my objection to the
8 time of trial?

9 MR. SCHLICHTMANN: Wouldn't have it any
10 other way.

11 A Right outside this door indicated by the circle in
12 black (Indication).

13 MR. CHEESEMAN: The large overhead door
14 on the rear wall of the second addition closest to
15 the north side of the property.

16 Q So during these conversations it was indicated to
17 you the area you have marked on the aerial photo-
18 graph with the black circle is the area these
19 persons or person indicated in their conversations
20 to you was where waste solvent was from time to
21 time disposed along the asphalt?

22 A That is correct.

23 Q Did they indicate that there was any other area
24 other than the area you indicated on the aerial
25 photograph?

1
2 A No.

3 Q Specifically, did they ever indicate during these
4 conversations or did you have any indication at
5 all any of this dumping of waste solvents took
6 place in the area that I am indicating between
7 the warehouse and the main building, in other
8 words, where peastone is now and the asphalt area
9 between the warehouse and the second addition?

10 A No.

11 Q Did they indicate the extent of the area or did
12 they indicate roughly the area you indicated?

13 A The indication was on the blacktop right outside
14 the door.

15 Q Did they indicate that paint sludge was disposed of
16 in that area, waste solvent or waste liquid only?

17 A You're asking a double-barreled question.

18 Q Did they indicate any of these materials were from
19 the paint -- contained paint or paint sludges?

20 A No.

21 Q In the conversation did they talk about where
22 liquids in which metal parts were degreased or
23 cleaned?

24 A Correct.

25 Q And this would have been in a pan?

1
2 A Correct.

3 Q Now, the kind of pan they described, was this the
4 metal pans?

5 MR. CHEESEMAN: Did they indicate?

6 A They did not indicate whether it was metal or wood
7 or plastic.

8 Q Are you familiar the plants do make use of metal
9 pans to hold liquid and to degrease metal parts in
10 them?

11 A Yes.

12 Q Are you familiar with the fact these metal pans
13 are approximately a couple of feet long and maybe
14 a foot wide?

15 A Some of them.

16 Q Did they indicate during any of these conversations
17 that was the kind of pan that was used to dispose
18 of this waste solvent?

19 A My recollection was that it was a small container
20 containing less than a pint of liquid that could
21 easily be carried in one hand.

22 Q Did they ever indicate it was more than that?

23 A No.

24 Q Now, did you ever transmit this information in your
25 final report concerning the results of your

1
2 investigation?

3 MR. CHEESEMAN: I think he previously
4 described that he prepared a memorandum.

5 MR. SCHLICHTMANN: Right.

6 MR. CHEESEMAN: Or a written document
7 relating to the investigation, which was prepared
8 for counsel. I don't think you're entitled to
9 inquire into the contents of that.

10 Q To your knowledge, was this information concerning
11 the disposal of this waste solvent ever
12 communicated to the EPA?

13 A If I may read the report to the EPA, I can answer
14 the question.

15 MR. CHEESEMAN: Of course, there have
16 been a great many reports made to the EPA by Grace.
17 He was not confining his question to Shalline
18 Exhibit 18.

19 (Pause)

20 MR. CHEESEMAN: Your question was ever?

21 MR. SCHLICHTMANN: Yes; to his
22 knowledge.

23 MR. CHEESEMAN: So you're not confining
24 your question to the Shalline exhibit I just
25 mentioned?

1
2 MR. SCHLICHTMANN: Correct.

3 MR. DeGIACOMO: I believe he is asking
4 whether you had personally furnished such
5 information.

6 MR. SCHLICHTMANN: I am not being that
7 specific.

8 Q Do you have any knowledge whether that information
9 was communicated to the EPA?

10 A I have no personal knowledge.

11 Q Did you ever communicate that information to the
12 EPA?

13 A I did not.

14 MR. SCHLICHTMANN: I understand you're
15 making an objection about his report because it
16 was within the attorney-client privilege
17 relationship?

18 MR. CHEESEMAN: Yes.

19 Q To your knowledge, is the February 5, 1982 letter,
20 is there any area in that document - and I know
21 the document speaks for itself - is there any area
22 in the document, Shalline Exhibit 18, is there
23 any reference in that letter which you feel
24 refers to that incident at all?

25 MR. CHEESEMAN: Objection. The document

1
2 does speak for itself.

3 MR. SCHLICHTMANN: Right.

4 (Pause)

5 Q Does it?

6 A I'm sorry, I thought he answered for me.

7 MR. CHEESEMAN: No.

8 THE WITNESS: The answer is no.

9 Q Mr. Stewart, was it your intention that this
10 information, for whatever reason, not be
11 communicated to the EPA because you had made a
12 decision it was either not important or some other
13 ground?

14 MR. CHEESEMAN: Objection.

15 A No.

16 Q Did you make a determination it was important
17 information that you had received?

18 MR. CHEESEMAN: Objection.

19 A Ask that question again.

20 Q Let me try to ask it better.

21 When you were informed about this
22 activity about the disposal of waste solvents on
23 the asphalt, at that time did you consider this to
24 be important information?

25 MR. CHEESEMAN: Objection.

1
2 A No.

3 MR. SCHLICHTMANN: I understand the
4 objection. You're objecting to the use of the
5 word "important."

6 Q Did you consider this information about the
7 disposal of waste solvents on the asphalt to be
8 information which was, which should be collected
9 as part of your investigation in response to the
10 EPA letter of January of 1982?

11 A No.

12 Q What was the reason you made for that decision,
13 for that determination?

14 A The information was that such activities were
15 incidental, infrequent, and would have no impact
16 upon -- the information was that it was
17 incidental, infrequent and, in my opinion, would
18 have no impact upon the Woburn plant site.

19 Q Did you communicate this information to any other
20 individual or entity?

21 A To our lawyers.

22 Q No other individual or entity?

23 A No.

24 MR. SCHLICHTMANN: I won't go into
25 anything between attorney and client.

1
2 Q At the last deposition, Mr. Stewart, we talked about
3 an individual who participated in the events
4 regarding the Manzelli pit and you couldn't
5 remember his name. I believe you referred to him
6 as Mr. X?

7 MR. CHEESEMAN: We have learned it is
8 really Mr. Y.

9 Q In the meantime, have you been able to determine
10 the identity or remember the name that was given
11 to you of who that person might have been?

12 A I have no knowledge of who the unidentified
13 individual was.

14 Q You said it was an Italian sounding name?

15 A That is correct.

16 Q There is a Mr. Orazine who was present at the
17 plant during that period. Do you --

18 MR. CHEESEMAN: Among others with
19 foreign sounding names.

20 Q Do you have any reason to believe it was
21 Mr. Orazine?

22 A You asked me that question before. My answer then
23 and now is no.

24 Q Mr. Calamari?

25 A No.

1
2 Q Did your investigation show that Mr. Shalline had
3 had any knowledge or had taken part in, had given
4 any authorization for the activities surrounding
5 the Manzelli pit?

6 MR. CHEESEMAN: Objection to the form.

7 A Ask it again.

8 Q Did your investigation during January of 1982 or
9 subsequent thereto ever indicate that Mr. Shalline
10 had authorized any activities regarding the
11 Manzelli pit?

12 MR. CHEESEMAN: Objection.

13 A No.

14 Q Did your investigation during that two-day
15 investigation of January of 1982 and
16 subsequently, did your investigation ever indicate
17 that Mr. Shalline had had any knowledge of the
18 activities regarding the Manzelli pit?

19 MR. CHEESEMAN: I'm unclear about the
20 time frame now.

21 MR. SCHLICHTMANN: Prior to the commence-
22 ment of the lawsuit.

23 MR. CHEESEMAN: Between his trip to
24 Woburn in early 1982 and the beginning of this
25 lawsuit did any information come to his attention

1
2 to that effect?

3 MR. SCHLICHTMANN: Yes.

4 A No.

5 Q Never came to your attention?

6 MR. CHEESEMAN: Never during that period
7 of time?

8 MR. SCHLICHTMANN: Right.

9 Q At any time did Mr. Shalline ever indicate to you
10 during your investigation of January of 1982 up
11 until the filing of the lawsuit that he had had
12 any knowledge or had given any authorization to,
13 or participated in any way in the events
14 surrounding the Manzelli pit?

15 A He did not indicate that to me.

16 Q At any time during that period?

17 A That is right.

18 Q Did he indicate to you at any time after the
19 filing of this lawsuit, but not related to any
20 conversations or activities having to do with
21 your attorney or the attorney for W. R. Grace --

22 MR. CHEESEMAN: Or in connection with
23 the preparation of the case.

24 Q -- or in connection with the preparation of this
25 lawsuit --

1

2

A Any conversation that I had with Mr. Shalline subsequent to that were in connection with the preparation of this lawsuit.

3

4

5

Q Now, Mr. Stewart, at the previous deposition you talked about being present during the cleaning of storm drains at the Woburn plant?

6

7

8

A During the physical cleaning of the storm drains?

9

Q Yes.

10

A I don't believe I was there when the machinery was there cleaning the storm drains.

11

12

Q You're aware the storm drains were cleaned?

13

A Yes.

14

Q Do you have any idea why the storm drains were cleaned?

15

16

A Storm drains were previously referred to as the north trench and south trench, and they were cleaned because they had growth and underbrush.

17

18

Q You're not talking about cleaning the pipe?

19

20

A No.

21

Q You're talking about cleaning the trenches of the south and north?

22

23

A Correct.

24

Q Exposed trenches?

25

A Yes.

1
2 Q Now, do you have any knowledge or did it ever come
3 to your attention at any time that the floor
4 drains inside the plant were used at any time for
5 the disposal of waste liquid - I'm sorry - waste
6 solvents other than the floor drains you
7 previously testified had been used in the machine
8 shop?

9 A (Pause).

10 Q Do you understand the question?

11 A No.

12 Q Did it ever come to your attention or did you ever
13 have any knowledge that floor drains were ever
14 used for disposal of waste solvents inside the
15 plant at any time, other than the use of the
16 floor drains near the machine shop which you
17 already testified to at your previous
18 deposition?

19 A I don't recall testifying to that.

20 Q You don't recall testifying about the Cool Tool
21 going down?

22 A Let's go back and start all over again.

23 Q All right. When you say "into the sewer system,"
24 is it unfair to say it is going down the floor
25 drain?

1
2 A The plant had a sanitary sewer system and a storm
3 water drain system. Can you be specific?

4 Q I am not talking about anything connected to the
5 storm water drainage. I am talking about the
6 floor drains that go out to the sanitary sewer,
7 to the MDC sewer.

8 A And the only knowledge I have of substances going
9 down into the sanitary sewer system is the cooling
10 fluids.

11 Q You were aware cooling fluids had a solvent in it,
12 is that right?

13 MR. CHEESEMAN: If you had an under-
14 standing.

15 A Yes.

16 Q And during your investigation it came to your
17 attention that this waste solvent was poured down
18 a floor drain in the machine shop area?

19 MR. CHEESEMAN: You're talking about the
20 cooling fluids?

21 MR. SCHLICHTMANN: Right.

22 A Cooling fluid is material that is a small percent
23 of solvent diluted to 50 times that of water, 50
24 times to water. That spent fluid was dumped in
25 the sanitary sewer system up until 1980.

1

2

Q Up until 1980?

3

A Yes.

4

Q To your knowledge, it was done throughout the
5 existence of the plant?

5

6

A I have no specific knowledge.

7

Q During a period of time prior to 1980,
8 Mr. Stewart, you don't know how long a period it
9 was?

10

A Correct.

11

Q But you were aware this was poured down a floor
12 drain; is that correct?

12

13

A I was aware it was disposed of prior to 1980 in
14 the sanitary sewer system.

14

15

Q How did that gain access to the sewer?

16

A I don't know.

17

Q No indication was ever given to you a floor drain
18 or some other kind of drain?

18

19

A No.

20

Q You never determined that?

21

A No.

22

Q Did you ever communicate that information about
23 the disposal of that waste liquid which contained
24 solvent to the EPA?

24

25

MR. CHEESEMAN: Mr. Stewart personally?

MR. SCHLICHTMANN: Yes.

Q Do you want to examine the letter?

MR. CHEESEMAN: He didn't send the letter.

A I never communicated to the EPA.

Q But you didn't make any reference -- There was no reference in the letter from Mr. Forte in March of 1982; is that right?

MR. CHEESEMAN: Objection to the form. The document speaks for itself.

MR. SCHLICHTMANN: I will grant you that.

MR. CHEESEMAN: Since the witness did not draft the document or write it, it seems to me the question --

MR. SCHLICHTMANN: He said his report was very similar to that.

MR. CHEESEMAN: You're quite right, not that it has any bearing on my objection.

MR. SCHLICHTMANN: True.

A Your question did I --

MR. CHEESEMAN: The current question is: Do you see any reference to that in the letter.

THE WITNESS: No.

1
2 Q When you learned that information during the
3 investigation did you consider that to be
4 important information to be collected during your
5 investigation so that an answer could be given to
6 the EPA?

7 MR. CHEESEMAN: I object to the use of
8 the word "important."

9 MR. SCHLICHTMANN: What he considered
10 important. Don't you think it is important to
11 know what he considered important?

12 Q Did you consider that information to be
13 information which you should collect and make as
14 part of your final report?

15 A The question was not asked by the EPA.

16 Q You didn't consider that the disposal of waste
17 solvents to the sewer was information which the
18 EPA was seeking in their letter; you made that
19 determination?

20 A That is correct.

21 Q Now, to your knowledge, at any time had the Woburn
22 plant ever been reprimanded by Cryovac Division
23 or W. R. Grace Corporation for any of the
24 activities surrounding the disposal of waste
25 material at the plant at any time?

1
2 MR. CHEESEMAN: Objection.

3 MR. SCHLICHTMANN: Do you want me to
4 define "reprimanded?"

5 MR. CHEESEMAN: I think the time period
6 should be clear.

7 MR. SCHLICHTMANN: Prior to May of 1982.

8 MR. CHEESEMAN: Go ahead.

9 Q Do you know if the Woburn plant was ever reprimanded prior to May of 1982, which is the
10 commencement of the lawsuit, for activities
11 regarding the disposal of waste materials at the
12 Woburn plant?
13

14 MR. CHEESEMAN: By headquarters?

15 MR. SCHLICHTMANN: By Cryovac Division
16 or W. R. Grace Corporation.

17 A To my knowledge?

18 Q Yes.

19 A No.

20 Q Was the Woburn plant in May of 1982, to your
21 knowledge, ever reprimanded by Cryovac Division
22 or W. R. Grace Corporation for any activities
23 regarding the disposal of waste materials at the
24 plant?

25 A I have never -- neither seen nor heard of any

reprimand in the Woburn plant on that subject.

Q Did you ever recommend reprimand at any time for any activities concerning the disposal of waste materials at any time in the past?

A I did not.

Q To your knowledge, was any employee of the Woburn plant ever reprimanded by W. R. Grace Corporation or the Cryovac Division for activities related to the disposal of waste materials at the Woburn plant prior to May of 1982?

A I have no idea.

Q Did you ever recommend the reprimanding of any employee engaged in waste disposal activities at the Woburn plant at any time prior to May of 1982?

A I did not.

Q And after the filing of this lawsuit in May of 1982, to your knowledge, Mr. Stewart, did Cryovac Division or W. R. Grace Corporation ever reprimand any individual employee or employees for any waste disposal activities at the Woburn plant?

A I have no personal knowledge.

Q After May of 1982, after the filing of the lawsuit,

1
2 did you ever recommend any employee or employees
3 at the Woburn plant who had engaged in waste
4 disposal activities at any time in the past should
5 have been reprimanded?

6 MR. CHEESEMAN: I think that question
7 was asked and answered previously.

8 MR. SCHLICHTMANN: I think this is more
9 specific.

10 MR. CHEESEMAN: I don't think it is.
11 It sounds identical.

12 MR. SCHLICHTMANN: Can I have it? I'm
13 almost done.

14 MR. CHEESEMAN: Go ahead.

15 A I made no recommendation for reprimand.

16 Q Mr. Stewart, I show you Shalline Exhibit 17, which
17 is a copy of the EPA letter, and I direct your
18 attention to Question 4 and ask that you read
19 that.

20 A (Witness complies).

21 Q Have you had an opportunity to read Question 4?

22 A Yes.

23 Q In the EPA letter you were requested to provide
24 the EPA with information concerning the waste
25 disposal practices concerning the chemicals

1
2 listed in that letter?

3 A I understand that.

4 Q Did you consider that the pouring of waste liquid
5 containing Cool Tool with trichloroethane,
6 1,1,1-trichloroethane, was information requested by
7 or sought by Question 4?

8 MR. CHEESEMAN: You're asking him --

9 MR. SCHLICHTMANN: About his under-
10 standing.

11 MR. CHEESEMAN: Ask him, first of all,
12 if he knew Cool Tool had 1,1,1-trichloroethane.

13 MR. SCHLICHTMANN: He testified to that
14 at the last deposition.

15 A What was the question?

16 Q Did you consider that Question 4 of the EPA letter
17 of January 15, 1982 was seeking information about
18 all waste disposal practices concerning
19 chemicals which they listed in their letter and
20 that the disposal of the Cool Tool, which contained
21 1,1,1-trichloroethane, down the sewer was one of
22 the waste disposal practices that the EPA was
23 seeking to know about in that question?

24 A I did not understand that to be the case.

25 Q What was your understanding about the type of

1
2 methods, disposal methods, the EPA was seeking in
3 their letter?

4 MR. CHEESEMAN: You're asking about the
5 whole letter now?

6 MR. SCHLICHTMANN: Yes.

7 Q Let me ask you this: You didn't consider that any
8 waste disposal method which involved the MDC sewer
9 or sewer system was being sought by the EPA in
10 their letter of January 15, 1982; is that
11 correct?

12 A That is correct.

13 Q Now, during your investigation or at any time
14 prior to the instigation of the lawsuit, did you
15 at any time determine that Mr. Vin Forte had had
16 any knowledge, had authorized or had participated
17 in the events surrounding the Manzelli pit?

18 A No.

19 Q At any time during your investigation did you ever
20 inquire of Mr. Forte as to whether he had any
21 knowledge, had participated in or had authorized
22 the activities surrounding the Manzelli pit?

23 A No.

24 Q YOu never did?

25 MR. CHEESEMAN: During that time

period?

MR. SCHLICHTMANN: Yes.

A No.

Q After May of 1982, did you, as part of the responsibilities of your office, ever determine or did it ever come to your attention that Mr. Forte had participated in, had knowledge of or had authorized any of the activities surrounding the Manzelli pit?

MR. CHEESEMAN: You're asking after May of 1982?

MR. SCHLICHTMANN: Exclusive of any information which he may have obtained within that attorney-client relationship.

MR. CHEESEMAN: It is also a work product rule here. It is clear to me Mr. Stewart's involvement since this lawsuit was all involvement with counsel and in the preparation of the defense to the action.

Q Let me ask you this: After the instigation of the lawsuit in May of 1982, you had -- is it fair to say you had no other responsibilities concerning the investigation or the determination of what took place at the Woburn plant at any

1
2 time in the past regarding waste disposal, other
3 than your participation with counsel for W. R.
4 Grace in the preparation of the defense of this
5 lawsuit?

6 MR. CHEESEMAN: And other proceedings.

7 Q And related proceedings?

8 A Yes.

9 MR. SCHLICHTMANN: Like EPA?

10 MR. CHEESEMAN: Right.

11 Q You did mention you had a conversation with
12 Mr. Forte subsequent to your last deposition.
13 Could you tell us what that was about and when it
14 took place, what was said?

15 MR. CHEESEMAN: He said he had no
16 conversations relating to waste disposal in
17 connection with this lawsuit.

18 MR. SCHLICHTMANN: I would like to hear
19 what the conversation was.

20 MR. CHEESEMAN: Did he have any
21 conversation other than matters relating to the
22 lawsuit, like baseball games?

23 A Yes.

24 Q Would you relate to us when it took place, what was
25 said, where it took place?

1
2 A I cannot relate specific dates and times.
3 Mr. Forte and I are in the same building and lunch
4 in the same cafeteria. We speak frequently and
5 talk about all kinds of things, business matters
6 and social matters, baseball games and so forth.
7 To my knowledge, they were all casual conversa-
8 tions in those areas.

9 Q And you have had numerous contacts with Mr. Forte?

10 A Yes.

11 Q The business relationship causes you to come in
12 contact with Mr. Forte all the time, and there is
13 lots of things to discuss that have nothing to do
14 with the lawsuit?

15 A Yes.

16 Q Things like baseball games, social events and
17 stuff like that?

18 A Yes.

19 MR. SCHLICHTMANN: I think we're all
20 done. I'm all --

21 MR. CHEESEMAN: Late as usual.

22 (Whereupon the deposition
23 was adjourned at 1:50.)
24
25

J U R A T

I, RICHARD STEWART, have read
the foregoing transcript of
testimony and the same
contains a true and accurate
recording of my answers given
to the questions therein set
forth.

Signed under the pains and
penalties of perjury this

_____ day of _____,
1985.

RICHARD STEWART

C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS)
) ss.
COUNTY OF NORFOLK)

I, Valerie T. Wong, Notary Public within
and for the Commonwealth of Massachusetts, do hereby
certify that:

RICHARD STEWART, the witness whose
deposition is hereinbefore set forth, was duly sworn by
me and that such deposition is a true record of the
testimony given.

I further certify that I am not related
to any of the parties to this action by blood or
marriage, and that I am in no way interested in the out-
come of this matter.

IN WITNESS WHEREOF, I have hereunto set
my hand and affixed my seal of office this 29th day
of July, 1985.


NOTARY PUBLIC

My Commission Expires:
November 5, 1987.